

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Acott Ventures, LLC
t/a Shadow Room
2131 K Street, NW
Retailer CN - ANC-2A
License No. 75871
Case #13-PRO-00149
(Renewal Application)

Protest
Hearing

March 12, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

JOHN SUERO, ABRA Investigator

P-R-O-C-E-E-D-I-N-G-S

(1:52 p.m.)

CHAIRPERSON MILLER: All right.

Now, the case that I think everybody is here for Case No. 13-PRO-00149, Shadow Room located at 2131 K Street, N.W., License No. 75871, in ANC-2A. And this is a Protest Hearing for a renewal application. Okay.

Why don't we start with introductions by the parties?

MR. MPRAS: Emanuel Mpras representing Shadow Room.

MR. DAS: Swaptak Das.

MR. ACOTT: Stephen Acott owner of Shadow Room.

MS. HARMON: I'm Florence Harmon.

MR. LABAS: And I'm Chris Labas representing the party of five or more.

CHAIRPERSON MILLER: Right.

Great. Okay. First, I want to ask if anybody is new to these proceedings? If you are new to these proceedings, I'll give you an

1 overview of how they go. If everybody is
2 familiar, we will just go right into it.
3 Okay. It sounds like you are all nodding that
4 you are -- don't need explanation how it's
5 going to go.

6 MR. MPRAS: Not necessary.

7 CHAIRPERSON MILLER: Okay. I do
8 want to just reiterate a couple of points that
9 -- for time-wise, there is five minutes given
10 for opening and closing, maximum, for each,
11 for the protestant and the applicant. You
12 each share -- you have -- I was just pausing
13 for a second to recall our regulations.

14 But the protestants share the
15 time, okay, so even if there is an ANC and
16 group of five, you share the five minutes.
17 Often only one person does an opening and
18 closing, but in any event it's the five
19 minutes for the whole protestant parties. And
20 each side has an hour and a half to present
21 the case and that can actually end up being on
22 the long side. So you know, you don't need to

1 use all that time.

2 The time is measured by your own
3 witnesses giving the direct testimony and then
4 your cross of witnesses. When your own
5 witness is being crossed by the other side,
6 it's the other side's time. Okay. So that's
7 about it on the timing wise.

8 I saw a lot of witnesses on the
9 PIF forms. I think I just want to double
10 check how many witnesses each side actually
11 has today and also say that we don't want
12 redundant testimony. It's okay to identify,
13 you know, that person, you know, I agree with
14 the same things or whatever, but not -- but
15 hopefully not redundant.

16 So how many witnesses for the
17 applicant? Yeah?

18 MR. MPRAS: Ma'am, as far as
19 opening, we are not going to have any
20 witnesses. We are relying on the report of
21 the Government and --

22 CHAIRPERSON MILLER: Okay.

1 MR. MPRAS: -- we reserve the
2 right to call Mr. Das and Mr. Acott as
3 rebuttal witnesses.

4 CHAIRPERSON MILLER: Okay. Good.
5 And how about for the protestants?

6 MS. HARMON: I think we have six.
7 Six to seven.

8 CHAIRPERSON MILLER: Okay. And
9 does anybody have any issues on Rule on
10 Witnesses or anything? Are you familiar with
11 that?

12 MR. MPRAS: I am and we choose to
13 apply that rule today.

14 CHAIRPERSON MILLER: Okay. So
15 what that means is if there is witnesses that
16 would be testifying to the same topic, that
17 they be --

18 MS. HARMON: The same what?

19 CHAIRPERSON MILLER: Topic. That
20 they be outside of the hearing room when a
21 witness is testifying, so that their testimony
22 is not influenced by what they hear the other

1 person testify to.

2 MS. HARMON: Yes, no, we don't
3 have a problem with that. We do have an MPD
4 Lieutenant coming and if we could take him out
5 of order, so he can get back?

6 CHAIRPERSON MILLER: Right. We
7 like to accommodate the police where we can.
8 That's no problem. So just my question is if
9 you have six or seven witnesses, I think that
10 the question is if they are going to be
11 testifying to similar things, that they not be
12 in the hearing room when testimony is given to
13 that topic.

14 MS. HARMON: That's no problem.

15 CHAIRPERSON MILLER: Oh, do you
16 have them? Are they here? Do they need to
17 step out?

18 MS. HARMON: I have just a private
19 investigator who is a witness and then this is
20 my paralegal.

21 CHAIRPERSON MILLER: Oh, okay.

22 MS. HARMON: She is visiting me.

1 She is on spring break.

2 CHAIRPERSON MILLER: She is not
3 testifying?

4 MS. HARMON: She is not a witness.

5 CHAIRPERSON MILLER: Okay. Okay.
6 So you don't have six witnesses in the hearing
7 room now?

8 MS. HARMON: It looks like we have
9 right now -- if he is the only -- so I think
10 we are okay.

11 CHAIRPERSON MILLER: Are you all
12 right with that?

13 MR. MPRAS: If he is the only
14 witness right now, then there is no --

15 CHAIRPERSON MILLER: Okay. Not on
16 that side. Okay.

17 MS. HARMON: Mr. Labas is going to
18 testify also, but he is a party.

19 CHAIRPERSON MILLER: He is a
20 party. There is no problem with that.

21 MR. MPRAS: Ma'am, what I would
22 ask as a point of procedure is pursuant to

1 DCMR 1606.8, that one protestant be designated
2 to run the protestant side for expediency.

3 MS. HARMON: That's fine with us.

4 CHAIRPERSON MILLER: Okay. Who is
5 that going to be?

6 MS. HARMON: It's going to be me.

7 CHAIRPERSON MILLER: Okay. Good.

8 All right. Good. Then we are all set. So
9 are you going to have an opening statement?

10 MR. MPRAS: Yes, ma'am, brief.

11 Members of the Board, we are here today for a
12 Protest Hearing on the renewal of Shadow Room.
13 This will be their third renewal and they have
14 been in existence for six years. And we are
15 relying on the report of ABRA itself to make
16 our case for us.

17 The protestants are asking for
18 things that are, in their pretrial brief,
19 inappropriate and impossible. They are asking
20 that an MPD Reimbursable Detail be ordered
21 where DCMR 718.5 specifically states that ABRA
22 shall not involve in determining the number of

1 MPD officers needed to work any reimbursable
2 detail.

3 They are asking for cameras to be
4 put outside of the Shadow Room. The property
5 outside of Shadow Room is not within their
6 control. It is in the control of the
7 landlord, who refuses to grant such
8 permission.

9 And this establishment, within the
10 last year, has had absolutely no -- not only
11 ABRA violations, but no dealings with ABRA
12 whatsoever as evidence of a properly-run and
13 lawfully-run establishment. Thank you.

14 CHAIRPERSON MILLER: Okay.

15 MS. HARMON: Member of the Board,
16 we appreciate your time once again. Once
17 again, the ANC-2A is protesting this matter.
18 I, Florence Harmon, am representing the ANC-
19 2A. I also represent ANC-2A06. I live and
20 represent the Single Member District in which
21 Shadow Room is located. And I actually live
22 on the block right around the corner.

1 Mr. Labas is the condo manager for
2 West End Place Condominium. He also lives on-
3 site on the condominium and I believe you will
4 hear testimony, and you have heard this in
5 past proceedings, that Shadow Room is located
6 at 2131 K Street along an access road going up
7 into Washington Circle. Just around the
8 corner is residential area that abuts that
9 block.

10 And we have had, for the six years
11 that Shadow Room has been in business,
12 numerous problems, particularly on a Thursday
13 night. Shadow Room has -- it used to be
14 called Urban Night. It's now called Instant
15 Chaos. It's a regularly scheduled event.

16 When the crowds come out at 2:00
17 a.m., they often cause disturbances in the
18 neighborhood. The disturbance -- the police
19 reports that we will enter into evidence
20 reflect that many of these disturbances are
21 serious. They involve simple assaults,
22 assault with a deadly weapon involving knives,

1 disorderly conduct, punches in the video
2 evidence we have we believe will show.

3 So this is not the kind of conduct
4 that is something that this neighborhood
5 should have to tolerate. And it is unsafe for
6 residents if they should be out walking their
7 dog or coming home late from another
8 engagement.

9 I think the testimony will show
10 that the ANC-2A does not go to full protest on
11 many matters. I can't recall an actual
12 protest we have done, except for, you know,
13 this particular matter.

14 We continue to get lots of
15 complaints at ANC meetings and in my emails
16 and/or when we see local residents about
17 conduct on this club, particularly Thursday
18 nights. Mr. Das, the owner, has repeatedly
19 said that his security detail can't control
20 the crowds that aren't on Shadow Room
21 premises.

22 So I think it's a very reasonable

1 request that the ANC has made that some type
2 of police detail be in effect to monitor the
3 crowds. And it doesn't have to be for the
4 entire evening. Most of the problems occur
5 around 2:00 a.m. on Thursday nights when the
6 crowd lets out or 3:00 a.m.

7 So we would be happy with a two-
8 hour detail with a number of officers they
9 specify. They don't have to go through the
10 reimbursable detail process. They could
11 contract directly with the police department
12 as many clubs do in the city.

13 But I think the evidence will show
14 that their security force is not able to
15 handle the disturbances. They are causing a
16 safety issue for the local residents.

17 As far as the camera goes, I think
18 the testimony will show that GW Hospital,
19 which is now the landlord of this building,
20 and their Chief Operating Officer, Kim Russo,
21 would accommodate a security camera.

22 We appreciate your time. Once

1 again, we are sorry we weren't able to work
2 out these issues. We think that the residents
3 and the ANC are being very, very reasonable in
4 their request that is targeted to very
5 specific concerns that they have. And thank
6 you for your time.

7 CHAIRPERSON MILLER: Thank you.

8 Okay. So now we will hear from our
9 Investigator. Would you come forward, please?
10 Whereupon,

11 INVESTIGATOR JOHN SUERO

12 was called as a witness by the ABRA Board, and
13 having been first duly sworn, assumed the
14 witness stand and was examined and testified
15 as follows:

16 CHAIRPERSON MILLER: Okay. Thank
17 you very much. So whenever you are ready, do
18 you want to give us an overview of your report
19 and findings?

20 DIRECT EXAMINATION

21 INVESTIGATOR SUERO: Investigator
22 John Suero with Alcoholic Beverage.

1 MEMBER JONES: Spell your name for
2 the record.

3 INVESTIGATOR SUERO: Investigator
4 John Suero, S-U-E-R-O, common spelling for
5 John, an Investigator with the Alcoholic
6 Beverage Regulation Administration.

7 COURT REPORTER: Your last name is
8 spelled?

9 INVESTIGATOR SUERO: S, as in Sam,
10 U-E-R-O. Like Smith, but not at all.

11 CHAIRPERSON MILLER: Okay.

12 INVESTIGATOR SUERO: Okay. I was
13 assigned the protest investigation of Shadow
14 Room, 2131 K Street, on February 7, 2014. I
15 was given, as the norm in these protest
16 investigations, a contact information list.
17 I was given Mr. Stephen Acott as the
18 applicant, Chris Labas, group of five
19 representative, and actually I was given
20 Jackson Carnes as the ANC representative.

21 I made contact with both Mr. Acott
22 and Mr. Labas on separate dates. I was not

1 able to reach Mr. Jackson Carnes at all. I
2 left messages and emails.

3 My conversation with Mr. Labas was
4 extensive. He was very clear on his concerns
5 for the neighborhood that he believes is
6 related to the issues that are going on at
7 Shadow Room. His concerns were loud noise,
8 music, fights, screaming, trash, cars racing
9 up and down the street, issues that happen
10 Thursday after closing, let's see, sexual act
11 on a car, fights, also music coming from the
12 alley or the back door of the business.

13 I spoke to Mr. Acott to get his
14 views on the concerns of the neighborhood. He
15 advised me in our conversation that he has
16 made an effort to be a good neighbor and has
17 met with the parties that are -- have concerns
18 about the Shadow Room on more than one
19 occasion. He does not, however, feel that his
20 establishment, the business that he has is
21 somehow responsible for people who are either
22 walking through that neighborhood or driving

1 through the neighborhood, because, as he put
2 it, there are other establishments that are
3 open the same hours and also in the same
4 general vicinity as the Shadow Room.

5 I contacted -- now, we have the DC
6 Unified -- Office of DC Unified Communication,
7 which is supposed to provide us with calls for
8 police service. I was not able to get in
9 touch with anyone. They never called me back,
10 so I don't have a list of -- well, we normally
11 would have a list of police calls for that
12 particular address.

13 I did check to see if we have had
14 any calls for noise complaints at ABRA in
15 reference to the Shadow and we have had none
16 in the time period that I was investigating
17 this and just prior to that, there had been no
18 calls. And I have found none at all
19 whatsoever at this point.

20 I made a point of spending time in
21 that neighborhood certainly and I wanted to
22 see what the sound of it was from the rear of

1 the establishment. So I parked my car at the
2 back of the establishment, turned it off, got
3 out and, frankly, I never heard a sound coming
4 from the back door of Shadow Room that night.

5 I went out front the days that
6 they were open that I was working, of course,
7 and I did not see extremely large crowds. I
8 did not see unruliness. I didn't see any
9 loitering, any fights, any police outside or
10 any police cars outside. The security staff
11 was in place whenever they were open whenever
12 I was there and they seemed to be having a
13 good handle on what was going on.

14 I was directed to some signs that
15 asked their patrons to be quiet as they are an
16 outside business. The parking situation,
17 which I know is also a concern, they, Shadow
18 Room, have a parking garage underneath the
19 building, that's Atlantic Company, and they
20 have 75 spaces available for their patrons to
21 use whenever they are open.

22 I did not find an overabundance of

1 cars parked on the street during late hours.

2 I made a point of looking to see, because I
3 know this is a residential neighbor certainly
4 and these are quality of life issues,
5 obviously.

6 I didn't find a lot of people
7 walking up and down the street. We had a cold
8 spell, obviously, you all know, during this
9 period of time, so there wasn't a lot of
10 people walking around at weird hours, because
11 it was very cold.

12 I did see a group of, what I
13 believed to be, students coming down across
14 from K Street. When I went down 22nd, I saw
15 them go past L. They were a bit loud, but
16 nothing of what I could call, you know,
17 ridiculously loud.

18 Let's see, the alleyway behind
19 Shadow Room was not cluttered with any trash.
20 It was very well-taken care of. Their trash
21 receptacle dumpster is to the rear of the
22 building. They were not overrun with trash.

1 They were quite clear when I saw them, more
2 than once.

3 I made a point of going to the
4 place -- I think altogether with all the other
5 ABRA Investigators that were working here
6 during this time period, we visited the Shadow
7 Room about 17 times, as much as we could
8 certainly.

9 I made a point of going there on
10 odd hours just to make sure that maybe during
11 a strange hour there was people walking around
12 or were being loud. During the time period
13 the protest investigation was occurring, as I
14 said, maybe due to the weather, there weren't
15 any really huge crowds on the times that they
16 were open, so I didn't see any ridiculous
17 amounts of people walking around and trying to
18 get to their cars or whatever.

19 But like I said, they have a 75
20 capacity garage right in their own building,
21 which I think would deter from any ridiculous
22 amounts of cars everywhere.

1 All in all, during my
2 conversations with the interested parties, I
3 also made a point of visiting the
4 establishment a few days later. I spoke to
5 Mr. Acott on the scene when they were open.
6 I walked around inside. It was well-
7 portioned, security was in place. There was
8 nothing untoward during the time that I was
9 there. It was relatively quiet actually for
10 a club.

11 I could hear myself what I said,
12 hear the person speaking which is kind of the
13 thing that I think is important when you walk
14 in, you can at least hear what someone is
15 saying to you. There was no -- there were no
16 issues inside when I was there. There were no
17 issues on the outside and I didn't have a
18 concern about what they were doing inside.

19 All their paper was proper. All
20 the posting of the warning signs were in
21 place. The licenses were posted properly and,
22 like I said, everything that should have been

1 in place was in place.

2 CHAIRPERSON MILLER: That
3 completes your testimony?

4 INVESTIGATOR SUERO: Yes, ma'am.

5 CHAIRPERSON MILLER: Okay. Board
6 questions?

7 MEMBER SILVERSTEIN: I've got a
8 couple.

9 CHAIRPERSON MILLER: Mr.
10 Silverstein?

11 MEMBER SILVERSTEIN: Mr. Suero or
12 Investigator, thank you for your thorough
13 report. You say there were no noise or
14 parking problems at all during the late hours?
15 There was nothing there that you saw that was
16 evident to you that was a problem?

17 INVESTIGATOR SUERO: No, there
18 wasn't and I made a point of just going as
19 many times as I could before I went home,
20 before I put my car away here at the office,
21 just to go and see, because I understand that
22 when you live somewhere you want to be

1 comfortable in your surroundings. I
2 understand.

3 I did not see an abundance of cars
4 that shouldn't have been there or more cars in
5 the parking that was available for --

6 MEMBER SILVERSTEIN: Did you talk
7 to the ANC Commissioner?

8 INVESTIGATOR SUERO: Well, the
9 person who is on our -- we get a list of who
10 our contacts are and, unfortunately, the young
11 lady was not on mine. I had a Mr. Jackson
12 Carnes and that person never returned my
13 calls, so I didn't have an opportunity to
14 speak to Ms. Harmon.

15 MEMBER SILVERSTEIN: I don't -- is
16 Mr. Carnes the --

17 INVESTIGATOR SUERO: That's what I
18 was told.

19 MEMBER SILVERSTEIN: -- ANC
20 Commissioner for that --

21 INVESTIGATOR SUERO: That's the
22 name I got on my list and if it was an error,

1 that's what I -- what was given to me in the
2 protest folder is what I used.

3 MEMBER SILVERSTEIN: Okay.

4 INVESTIGATOR SUERO: And that's
5 what I use. And I don't know who the person
6 is. Not someone I have met before.

7 MEMBER SILVERSTEIN: Because the--

8 INVESTIGATOR SUERO: Yeah, I
9 noticed that.

10 MEMBER SILVERSTEIN: -- that she
11 is.

12 INVESTIGATOR SUERO: This is not
13 Jackson Carnes, obviously.

14 MEMBER SILVERSTEIN: Yes. I think
15 he is somewhere else. The other question I
16 have is were you out there at, they mentioned,
17 closing time on --

18 INVESTIGATOR SUERO: Whenever I
19 could be.

20 MEMBER SILVERSTEIN: -- Thursday--

21 INVESTIGATOR SUERO: Right.

22 MEMBER SILVERSTEIN: -- night.

1 INVESTIGATOR SUERO: Yeah.

2 MEMBER SILVERSTEIN: Did we --

3 INVESTIGATOR SUERO: I think --

4 MEMBER SILVERSTEIN: You had
5 stated that you had 17 and you had no problems
6 with the 17 visits.

7 INVESTIGATOR SUERO: Right. But
8 they --

9 MEMBER SILVERSTEIN: What about
10 that particular time?

11 INVESTIGATOR SUERO: -- weren't at
12 2:00 in the morning certainly. We just, you
13 know, work the hours that we work. So one
14 week I'm on days and the next week I'm on
15 evenings. I probably go as many times as I
16 could to see what it was like. But whenever
17 I was on nights, I had been there between 1:30
18 and 3:00 in the morning, between, you know,
19 1:30, 1:45 in those hours, so around the time
20 they begin to close I'm out there. I was out
21 there.

22 MEMBER SILVERSTEIN: On a

1 Thursday?

2 INVESTIGATOR SUERO: And I made a
3 point of being there because Thursday, I think
4 Mr. Labas said that they had a hip-hop night.
5 But they have -- I believe he said every
6 Thursday, I believe is what he said. And so
7 I have been there during that time and I
8 didn't have an issue.

9 MEMBER SILVERSTEIN: Okay. No
10 further questions.

11 CHAIRPERSON MILLER: Others? Mr.
12 Alberti?

13 MEMBER ALBERTI: Mr. Suero, I'm
14 looking at your days and hours of visits.

15 INVESTIGATOR SUERO: Right.

16 MEMBER ALBERTI: Just to be fair
17 to everyone --

18 INVESTIGATOR SUERO: Absolutely.

19 MEMBER ALBERTI: -- I only see two
20 Thursday night, Friday morning visits that
21 were after 12:00.

22 INVESTIGATOR SUERO: Right.

1 MEMBER ALBERTI: There is one
2 listed is -- I mean, the first one on the
3 table is Friday and that's 12:00 to 12:20 a.m.
4 on a Friday. That would have been Thursday
5 night into Friday. Is that correct?

6 INVESTIGATOR SUERO: Right,
7 exactly.

8 MEMBER ALBERTI: And then on the
9 next page, the Thursday down is a Friday. So
10 you really haven't been there at closing on a
11 Thursday, just to be fair. Is that correct?

12 INVESTIGATOR SUERO: Let's see --

13 MEMBER ALBERTI: For the Thursday
14 events.

15 INVESTIGATOR SUERO: Let me just
16 make sure, because, as you know, I work one
17 weekdays and one weeknights.

18 MEMBER ALBERTI: No, I understand
19 that.

20 INVESTIGATOR SUERO: Let me just
21 be sure.

22 MEMBER ALBERTI: But I just want

1 to be fair, so we know --

2 INVESTIGATOR SUERO: Yes, I
3 understand.

4 MEMBER ALBERTI: -- what we are
5 dealing with here.

6 INVESTIGATOR SUERO: Let me just
7 look at the documentation for the dates.
8 Right. But I -- I see your point and you are
9 correct.

10 MEMBER ALBERTI: Okay.

11 INVESTIGATOR SUERO: However, I
12 did make a point --

13 MEMBER ALBERTI: You know --

14 INVESTIGATOR SUERO: -- even if --
15 I know it's not in here, because, you know, we
16 have a lot of assignments, we are not just
17 sitting around at a particular spot, to come
18 back and just see what it looks like. So I
19 made a point of making sure that at least
20 before I called it a day for my shift to go
21 back and take a look at the neighborhood,
22 because I know it's important.

1 MEMBER ALBERTI: So that's not in
2 your table?

3 INVESTIGATOR SUERO: To see if
4 there was a -- for?

5 MEMBER ALBERTI: Those
6 observations are not in this table?

7 INVESTIGATOR SUERO: They may not
8 be, right.

9 MEMBER ALBERTI: Well --

10 INVESTIGATOR SUERO: I understand.

11 MEMBER ALBERTI: Okay. Let me
12 ask, are there some observations that you made
13 of this establishment on a Friday morning that
14 are not on this table?

15 INVESTIGATOR SUERO: Yes.

16 MEMBER ALBERTI: Okay. Do you
17 know, approximately, how many?

18 INVESTIGATOR SUERO: At least
19 three.

20 MEMBER ALBERTI: And what times
21 are they?

22 INVESTIGATOR SUERO: And I made a

1 point of doing those after 1:00 in the
2 morning, just to be sure.

3 MEMBER ALBERTI: How far after
4 1:00?

5 INVESTIGATOR SUERO: 1:30, 1:45.

6 MEMBER ALBERTI: Okay.

7 INVESTIGATOR SUERO: Before 2:00.

8 MEMBER ALBERTI: Okay.

9 INVESTIGATOR SUERO: Just to be
10 sure.

11 MEMBER ALBERTI: And again, what
12 were your observations then?

13 INVESTIGATOR SUERO: My
14 observation is that it was quiet. And as I
15 said before, maybe it's weather-related, but
16 it just has been a quiet time. There was not
17 unruly crowds. I didn't find a bunch of
18 people walking down the street and yelling or
19 screaming or anything else actually.

20 MEMBER ALBERTI: Okay. I see one
21 observation here. It was a Friday night into
22 Saturday morning, so the times were 2:50,

1 3:10.

2 INVESTIGATOR SUERO: Right.

3 MEMBER ALBERTI: Saturday. So
4 that would have been closing time.

5 INVESTIGATOR SUERO: Yes, sir.

6 MEMBER ALBERTI: For certain.

7 INVESTIGATOR SUERO: Absolutely.

8 MEMBER ALBERTI: And you say you
9 saw patrons waiting outside on the sidewalk
10 after let out of the club, little noise heard.
11 So did you -- is that your observation or
12 someone else's?

13 INVESTIGATOR SUERO: No, that's
14 mine. There -- I thought they were waiting
15 for maybe their car to be brought out, because
16 this is a valet service.

17 MEMBER ALBERTI: Okay. How many
18 people?

19 INVESTIGATOR SUERO: It wasn't a
20 lot, four or five.

21 MEMBER ALBERTI: Okay, okay. And
22 when you say little noise heard, from the

1 patrons or from the club?

2 INVESTIGATOR SUERO: I thought it
3 was patrons who had come out from the club,
4 yes.

5 MEMBER ALBERTI: Okay. Very good.
6 Thank you very much. Thank you for your
7 report, Investigator.

8 INVESTIGATOR SUERO: Oh, you're
9 very welcome.

10 CHAIRPERSON MILLER: Okay.
11 Others?

12 MEMBER RODRIGUEZ: No.

13 CHAIRPERSON MILLER: All right. I
14 have just a couple of questions.

15 INVESTIGATOR SUERO: Absolutely.

16 CHAIRPERSON MILLER: So in the
17 days and hours of visits to the premises, in
18 several of your observations you note a heavy
19 saturation of pedestrians walking up and down
20 K Street?

21 INVESTIGATOR SUERO: Yeah.

22 CHAIRPERSON MILLER: Okay. Were

1 they noisy? What did you observe about them?

2 INVESTIGATOR SUERO: This is
3 probably, if I'm looking at what you are
4 looking at, during the day. I wouldn't call
5 them noisy. Just you can tell a lot of people
6 walking up and down. K Street is a busy
7 street, so during the early parts of a day,
8 it's going to be quite crowded.

9 CHAIRPERSON MILLER: How about in
10 the late evening? Did you notice that or no?

11 INVESTIGATOR SUERO: I didn't
12 notice any extremely loud groups or anything
13 like that, no. But there are -- it's a busy
14 street. Clearly a busy street.

15 CHAIRPERSON MILLER: Busy in the
16 day and the night?

17 INVESTIGATOR SUERO: It can be.
18 Early evening, I wouldn't say night, but early
19 evening it can be kind of busy.

20 CHAIRPERSON MILLER: Did the
21 licensee know that you were reviewing the
22 establishment during this period that you were

1 doing your visits?

2 INVESTIGATOR SUERO: No.

3 CHAIRPERSON MILLER: No? They did
4 not know --

5 INVESTIGATOR SUERO: They did not.

6 CHAIRPERSON MILLER: -- they were
7 under review?

8 INVESTIGATOR SUERO: No, no.

9 CHAIRPERSON MILLER: Specifically.
10 Okay. They knew their license was being up
11 for renewal?

12 INVESTIGATOR SUERO: I imagine
13 that they know when their license is up for
14 renewal.

15 CHAIRPERSON MILLER: But they
16 didn't know --

17 INVESTIGATOR SUERO: But I didn't
18 contact them.

19 CHAIRPERSON MILLER: Okay. They
20 didn't know about when you were coming?

21 INVESTIGATOR SUERO: No, ma'am.

22 CHAIRPERSON MILLER: Okay.

1 INVESTIGATOR SUERO: Absolutely
2 not.

3 CHAIRPERSON MILLER: And just to
4 clarify, did you say that during this period
5 of time, I think it was a three week period of
6 time February 7th to 28th or so, it was
7 particularly cold a lot of the time?

8 INVESTIGATOR SUERO: It was kind
9 of cold. It was. We had a cold spell,
10 absolutely.

11 CHAIRPERSON MILLER: So as an
12 Investigator, did you notice in general that
13 things were quieter around town?

14 INVESTIGATOR SUERO: Yes, ma'am, I
15 did.

16 CHAIRPERSON MILLER: Okay. Okay.
17 I don't have any other questions now. Does
18 the applicant have questions?

19 MR. MPRAS: Yes, ma'am.

20 COURT REPORTER: Sir, can you turn
21 your microphone on?

22 CROSS-EXAMINATION

1 MR. MPRAS: Mr. Suero, you said
2 just on record you had 17 visits.

3 INVESTIGATOR SUERO: Myself and
4 other Investigators. Not just me visited.

5 MR. MPRAS: Yourself and other
6 Investigators --

7 INVESTIGATOR SUERO: Right.

8 MR. MPRAS: -- to monitor the
9 establishment? Is that a lot for a protest
10 report?

11 INVESTIGATOR SUERO: I wouldn't
12 call it a lot. I think that's somewhere about
13 pretty standard.

14 MR. MPRAS: Pretty standard?

15 INVESTIGATOR SUERO: Yes.

16 MR. MPRAS: Okay.

17 INVESTIGATOR SUERO: For that
18 period of time, absolutely.

19 MR. MPRAS: Okay. Now, you also
20 stated that you tried to contact Mr. Jackson
21 Carnes.

22 INVESTIGATOR SUERO: That's on my

1 list, but apparently that may not be the right
2 person.

3 MR. MPRAS: Okay. Do you know who
4 this individual is?

5 INVESTIGATOR SUERO: I was given
6 that person as the ANC representative.

7 MR. MPRAS: So to your knowledge,
8 he is a member of the ANC?

9 INVESTIGATOR SUERO: I don't know
10 the person personally.

11 MR. MPRAS: Yes.

12 INVESTIGATOR SUERO: I only got a
13 name in the file, so I can't say to my
14 knowledge. I don't know the person.

15 MR. MPRAS: According to your
16 file?

17 INVESTIGATOR SUERO: That's what I
18 got.

19 MR. MPRAS: Okay. And do you have
20 any idea why he didn't respond to you?

21 INVESTIGATOR SUERO: Since I don't
22 know that person, certainly, I do not.

1 MR. MPRAS: Okay. Now, when you
2 interviewed Mr. Labas, you said that he
3 complained the loud music from the back door,
4 fights, screaming, cars racing up and down the
5 street, loud radios playing. I'm reading from
6 your report. Is that correct?

7 INVESTIGATOR SUERO: Yes.

8 MR. MPRAS: Okay. Did you
9 personally witness any of this?

10 INVESTIGATOR SUERO: I did not.

11 MR. MPRAS: So there is no basis
12 in evidence for you to assume that any of this
13 is correct per your report?

14 INVESTIGATOR SUERO: My report
15 just relays what I was told, sir.

16 MR. MPRAS: I'm sorry, per your
17 observations in your report? You don't have
18 a basis to believe that any of this is
19 actually going on?

20 INVESTIGATOR SUERO: To believe or
21 not believe, I have no basis either way.

22 MR. MPRAS: Now, how many other

1 establishments are within that area with
2 similar -- licenses and entertainment
3 endorsements similar to Shadow Room?

4 INVESTIGATOR SUERO: Let's see,
5 there are 33 licensed ABC establishment within
6 1,200 feet of Shadow Room. And your question
7 was how many have an entertainment
8 endorsement?

9 MR. MPRAS: Correct.

10 INVESTIGATOR SUERO: Nine have
11 entertainment endorsements with similar hours
12 to Shadow Room.

13 MR. MPRAS: Now, the people
14 walking on the street, could you differentiate
15 whether they were going to Shadow Room -- I'm
16 sorry, coming from Shadow Room or going to
17 Shadow Room or to another establishment as
18 they were, you know, passing by?

19 INVESTIGATOR SUERO: I could not.

20 CHAIRPERSON MILLER: I'm sorry?

21 MEMBER ALBERTI: May I interrupt
22 here? Just to be helpful, Mr. Mpras, the time

1 frame isn't clear. I mean, we have
2 observations from the middle of the afternoon
3 and observations from closing time.

4 MR. MPRAS: I was asking --

5 MEMBER ALBERTI: So when you talk
6 about pedestrians walking to and from and I'm
7 trying to get the information, so it's
8 important that -- I would like to have a time
9 frame on that question, but you can -- you
10 don't have to -- that's just my comment. You
11 can go ahead if you want.

12 MR. MPRAS: Well, my time frame
13 would be during the course of his observations
14 at any given time. Did -- could you --

15 MEMBER ALBERTI: Well, I can tell
16 you that's not very helpful.

17 MR. MPRAS: All right. Let's
18 narrow it down to Shadow Room operating hours.

19 INVESTIGATOR SUERO: Sorry?

20 MR. MPRAS: Shadow Room operating
21 hours. Would it be -- were all the people you
22 saw walking there going to or from Shadow

1 Room? The pedestrians on the street. I'm
2 asking you during the operating hours of
3 Shadow --

4 INVESTIGATOR SUERO: During their
5 operating hours, which are from, I believe --
6 let me look at my --

7 CHAIRPERSON MILLER: Your voice is
8 dropping. I can't hear your answer.

9 INVESTIGATOR SUERO: Oh, I
10 apologize.

11 CHAIRPERSON MILLER: What did you
12 say?

13 MR. MPRAS: 11:00 to 2:00 on the
14 weekdays and 11:00 to 3:00 on the weeknights.

15 INVESTIGATOR SUERO: I would not
16 be able to determine if someone walking down
17 on K Street in that area at 11:00 in the
18 morning is headed toward Shadow Room, unless
19 I see them actually walk in.

20 MR. MPRAS: So pedestrians walking
21 in the street in the area, let's say during
22 the opening hours of Shadow Room in the

1 evening could have been coming from another
2 establishment of a similar type?

3 INVESTIGATOR SUERO: Certainly.

4 MR. MPRAS: Now, as part of your
5 investigative report, you have a Shadow Room
6 investigative history. I believe that's page
7 12 of your report.

8 INVESTIGATOR SUERO: Okay.

9 MR. MPRAS: Since Shadow Room's
10 last renewal, could you at least tell me if
11 any adverse action has been taken against
12 Shadow Room by the ABRA?

13 CHAIRPERSON MILLER: I'm sorry to
14 interject, but could you at least give a year?

15 MR. MPRAS: Oh, I'm sorry. 2011,
16 2012 and 2013.

17 CHAIRPERSON MILLER: Okay.

18 INVESTIGATOR SUERO: The question
19 is after the renewal?

20 MR. MPRAS: No. In the years of
21 2011, 2012 and 2013 --

22 INVESTIGATOR SUERO: Right.

1 MR. MPRAS: -- has any adverse
2 action been taken against Shadow Room by ABRA?

3 INVESTIGATOR SUERO: Well,
4 December 22, 2012 they received a warning
5 letter request sent by the Board for sale to
6 minor.

7 MR. MPRAS: Okay. Is a warning
8 letter considered adverse action?

9 INVESTIGATOR SUERO: I would say
10 so.

11 MR. MPRAS: Okay.

12 INVESTIGATOR SUERO: Also there
13 was -- let's see, that's the only pertaining
14 to ABRA.

15 MR. MPRAS: Okay. Now --

16 INVESTIGATOR SUERO: For the years
17 that you specified.

18 MR. MPRAS: Um-hum. Now, in 2013,
19 how many ABRA incidents did Shadow Room have?

20 INVESTIGATOR SUERO: There are
21 none listed for 2013.

22 MR. MPRAS: Okay. Thank you. And

1 in your report you stated that Shadow Room
2 received no -- no noise complaints were
3 received by ABRA regarding Shadow Room?

4 INVESTIGATOR SUERO: That's
5 correct.

6 MR. MPRAS: Okay. And do you know
7 if any noise complaints were filed with DCRA?

8 INVESTIGATOR SUERO: I would have
9 no knowledge of that.

10 MR. MPRAS: Okay. If a noise
11 complaint against Shadow Room were filed with
12 MPD, would that be forwarded to ABRA?

13 INVESTIGATOR SUERO: Not
14 necessarily. It could be, but not
15 necessarily.

16 MR. MPRAS: Okay. But nothing
17 shows up on their report?

18 INVESTIGATOR SUERO: We don't have
19 any, no.

20 MR. MPRAS: I have no further
21 questions. Thank you.

22 CHAIRPERSON MILLER: Okay.

1 Protestants?

2 MS. HARMON: Investigator Suero,
3 thank you for testifying today. Just on page
4 8 of your report, I want to go through a
5 couple of things. And I want to stick to
6 what's in your report, because that's really
7 what we had notice of and --

8 INVESTIGATOR SUERO: Okay.

9 MS. HARMON: -- it's described in
10 the report.

11 INVESTIGATOR SUERO: Absolutely.

12 MEMBER SILVERSTEIN: Could you --

13 MS. HARMON: Friday, February --

14 CHAIRPERSON MILLER: Ms. Harmon?

15 MEMBER SILVERSTEIN: Could you
16 speak a little louder?

17 MS. HARMON: Sorry. I'm sorry.
18 Can you hear me now?

19 MEMBER SILVERSTEIN: Yes.

20 INVESTIGATOR SUERO: Thank you,
21 yes.

22 MS. HARMON: Okay. On -- in your

1 report, you -- isn't it true you visited
2 Shadow Room on Friday, February 7th, from
3 12:00 to 12:20 a.m.?

4 INVESTIGATOR SUERO: Yes, ma'am.

5 MS. HARMON: And that wouldn't be
6 the closing?

7 INVESTIGATOR SUERO: No, ma'am, it
8 was not.

9 MS. HARMON: It would have been
10 about 2:00.

11 INVESTIGATOR SUERO: That's
12 correct. That's right.

13 MS. HARMON: And then the next
14 Friday listed, Valentine's Day, Friday the
15 14th.

16 INVESTIGATOR SUERO: Right.

17 MS. HARMON: You visited from --
18 let's see, well, above that Thursday, the
19 13th, you went from 11:00 to 11:18. Isn't
20 that true?

21 INVESTIGATOR SUERO: Yes, ma'am.

22 MS. HARMON: And then on Friday

1 you went 10:05 to 10:18 and that -- those
2 times wouldn't be closing time.

3 INVESTIGATOR SUERO: That is
4 correct.

5 MS. HARMON: Okay. And then on
6 the next page if we look at Friday the 21,
7 2014, isn't it true you went -- the report
8 lists that you went from 12:00 to 12:20 a.m.?

9 INVESTIGATOR SUERO: Yes.

10 MS. HARMON: And that wouldn't be
11 closing time, would it?

12 INVESTIGATOR SUERO: That's
13 correct.

14 MS. HARMON: Okay. And then the
15 last Friday listed, February 28, 2014, isn't
16 it true that the report lists that you went to
17 monitor Shadow Room from 1:20 to 1:40 a.m.?

18 INVESTIGATOR SUERO: That's
19 correct.

20 MS. HARMON: And that's not
21 closing time.

22 INVESTIGATOR SUERO: That's

1 correct.

2 MS. HARMON: Okay. And your
3 report does mention that -- I guess it is DC's
4 Office of Unified Communications. Is that
5 part of MPD?

6 INVESTIGATOR SUERO: I don't
7 believe so.

8 MS. HARMON: So --

9 INVESTIGATOR SUERO: If I can
10 clarify?

11 MS. HARMON: Oh.

12 INVESTIGATOR SUERO: Prior to this
13 time, we had a contact inside of MPD who we
14 would call that officer and advise that
15 officer that we were conducting a protest
16 investigation and could we, please, have calls
17 for service for police service for a year's
18 time.

19 MS. HARMON: Um-hum.

20 INVESTIGATOR SUERO: From the date
21 that I received the present investigation to
22 a year prior to that and -- so that I could

1 provide you with an entire list of all the
2 times MPD received a call to a particular
3 address or location.

4 They have since changed that and
5 now they say everyone has to go through Office
6 of DC Communications. Unfortunately, what you
7 get when you call them is a message to leave
8 a message and somebody will contact you again.
9 Of course, no one has ever contacted me and I
10 think I have called for this investigation
11 probably five times.

12 MS. HARMON: Oh, I'm sorry about
13 that.

14 INVESTIGATOR SUERO: Yeah, I'm
15 sorry, because I would have liked to have
16 provided you that.

17 MS. HARMON: Okay. Let me --

18 CHAIRPERSON MILLER: I just want
19 to interject that this is the first time the
20 Board has heard about this problem, so we will
21 look into it.

22 MS. HARMON: Thank you.

1 CHAIRPERSON MILLER: Okay.

2 MS. HARMON: Let me hand you and
3 opposing counsel a copy. I'm not going to
4 enter this into evidence, at this time,
5 because we are the chain of custody with you,
6 but if you could just review it.

7 MR. MPRAS: Well, ma'am, I object.

8 CHAIRPERSON MILLER: Okay. Ms.
9 Harmon, can you identify it and also show it
10 to the applicant?

11 MS. HARMON: Yes, I gave him a
12 copy.

13 CHAIRPERSON MILLER: Oh, you gave
14 him a copy?

15 MS. HARMON: Yeah, I gave him a
16 copy. It's --

17 CHAIRPERSON MILLER: Okay.

18 MS. HARMON: -- police reports
19 that I obtained from MPD. And many of them
20 have already been entered into evidence in
21 various protesting proceedings involving this
22 applicant, but there are some newer ones in

1 here and I did obtain them from MPD.

2 So I thought I would testify to
3 that and we could enter it into evidence, at
4 that point. So I'm just asking Investigator
5 Suero if he had seen any of these reports.

6 MR. MPRAS: Ma'am, I object to
7 these being entered. There is no direct chain
8 of custody and these are something that should
9 be entered by the MPD representative who is
10 scheduled to testify, not by anybody else.

11 MS. HARMON: Would I be able to
12 recall Investigator Suero or I can -- I
13 could --

14 CHAIRPERSON MILLER: Is your --
15 okay.

16 MR. MPRAS: He would have to
17 testify.

18 CHAIRPERSON MILLER: Is he here?

19 MS. HARMON: Pardon me?

20 CHAIRPERSON MILLER: Is your
21 witness here from MPD yet?

22 MS. HARMON: He's not here yet.

1 CHAIRPERSON MILLER: He's not here
2 yet.

3 MS. HARMON: But I'm happy -- I
4 obtained them and I have the email showing
5 that they were sent to me.

6 CHAIRPERSON MILLER: She doesn't
7 want to enter them, at this point. She just
8 wants to question as to --

9 MS. HARMON: So I haven't made a
10 motion to, you know, enter them into evidence.
11 I don't think that --

12 CHAIRPERSON MILLER: Do you have
13 an extra copy that I could look at?

14 MS. HARMON: Sure.

15 CHAIRPERSON MILLER: Okay.

16 MS. HARMON: Sure. I have a lot
17 of extra copies.

18 CHAIRPERSON MILLER: Here. That's
19 okay.

20 MS. HARMON: Anybody else want
21 one?

22 CHAIRPERSON MILLER: Don't you

1 want one?

2 MEMBER SHORT: Yeah.

3 CHAIRPERSON MILLER: Yeah.

4 MS. HARMON: Okay.

5 CHAIRPERSON MILLER: Okay. Thank
6 you. She has got a couple extra.

7 MS. HARMON: Well, we can enter
8 this into evidence later. Okay.

9 CHAIRPERSON MILLER:

10 MEMBER SHORT: I'll take one.
11 Thank you. Here you go. Thank you.

12 MR. MPRAS: Ma'am, I would also
13 object because this is not for Shadow Room.
14 This is for 2131 K Street, which is an
15 enormous office building with many tenants.

16 MS. HARMON: Okay. Well, we can--
17 they can -- I think the Board can --

18 CHAIRPERSON MILLER: That's --

19 MS. HARMON: -- you know --

20 CHAIRPERSON MILLER: -- often the
21 case with the police calls. They are kind of
22 a general area. The police call reports are

1 often the general area, but do you have an
2 objection to her proceeding with having our
3 Investigator comment on these or are you going
4 to be asking that he be recalled, because he
5 is here. He can come back if that's --

6 MS. HARMON: You know, I'm happy
7 to withhold them and not go down this line of
8 inquiry. I can wait.

9 CHAIRPERSON MILLER: Are you
10 saying you will wait and recall -- you want to
11 recall him or are you going to --

12 MS. HARMON: Well, I --

13 CHAIRPERSON MILLER: -- wait for
14 your own witness?

15 MS. HARMON: No, I just was going
16 to ask him if he had seen any of these
17 reports. And I don't think he would testify
18 as to the veracity of the reports. But I was
19 just going to ask him if he had seen any of
20 them.

21 MR. MPRAS: Again, the objection
22 to relevancy.

1 CHAIRPERSON MILLER: Okay. Go
2 ahead.

3 MS. HARMON: Okay.

4 CHAIRPERSON MILLER: Explain what
5 the relevance is and then --

6 MS. HARMON: Okay. Investigator
7 Suero --

8 CHAIRPERSON MILLER: Wait, could
9 you -- are you all right with that, Mr. Mpras?
10 Do you want her to say why they are relevant?
11 Why she wants to ask him?

12 MR. MPRAS: Yes, ma'am.

13 CHAIRPERSON MILLER: Okay.

14 MR. MPRAS: I would like to know
15 how they are relevant.

16 CHAIRPERSON MILLER: Okay. Take
17 it one more step.

18 MS. HARMON: I think they are
19 relevant because I think the testimony will
20 show that these are MPD incident and event
21 reports of incidents that did occur at Shadow
22 Room.

1 For example, the first one from
2 October 4, 2013, the narrative says "On the
3 listed day and time, C2 was inside Shadow Room
4 when bouncers had to escort him out of the
5 club."

6 March 22, 2013, "Metropolitan
7 police officers responded to the Shadow Room
8 Night Club for several fights for the 2131 K
9 Street."

10 March 2, 2013 --

11 MR. MPRAS: Do you need all this?

12 MS. HARMON: -- "Disorderly
13 conduct." I mean, I could go through all of
14 these, but they all mention Shadow Room and I
15 don't think --

16 CHAIRPERSON MILLER: Okay. So you
17 just want to ask the Investigator if he ever
18 saw those reports?

19 MS. HARMON: Okay. Investigator
20 Suero, if you could look at Tab 1,
21 particularly that's a more recent report, I
22 was wondering if you had ever seen any of

1 these reports?

2 INVESTIGATOR SUERO: No, ma'am, I
3 have not.

4 MS. HARMON: Okay. Thank you.

5 INVESTIGATOR SUERO: You're
6 welcome.

7 CHAIRPERSON MILLER: I think it's
8 relevant.

9 MS. HARMON: And so because you
10 have never seen them, if they were, in fact,
11 MPD reports they would have been included in
12 the investigative history if they were
13 relevant?

14 INVESTIGATOR SUERO: Absolutely. I
15 have a list of all the calls that came in for
16 that time period.

17 MS. HARMON: Okay. That's all I
18 have.

19 CHAIRPERSON MILLER: Okay. Any
20 rebuttal questions?

21 MR. MPRAS: I do.

22 CHAIRPERSON MILLER: Okay.

1 REDIRECT EXAMINATION

2 MR. MPRAS: Let me ask, Mr. Suero,
3 per your earlier testimony, you did testify
4 that you went and observed Shadow Room
5 Thursday night going into Friday morning at,
6 approximately, 1:30 to 1:45 a.m. on three
7 occasions?

8 INVESTIGATOR SUERO: That's what
9 is on the list, yes, sir.

10 MR. MPRAS: Okay. And at that
11 time, you also stated that you did not observe
12 any disturbances?

13 INVESTIGATOR SUERO: That's
14 correct.

15 MR. MPRAS: Okay. So that would
16 be closing time Thursday night going into
17 Friday morning?

18 INVESTIGATOR SUERO: Close to
19 closing time, exactly.

20 MR. MPRAS: Thank you.

21 INVESTIGATOR SUERO: You're
22 welcome.

1 MEMBER SILVERSTEIN: May I ask,
2 Mr. Mpras, what date did you say that was and
3 what time?

4 MR. MPRAS: Excuse me, Mr.
5 Silverstein, I did not specify a date because
6 it --

7 MEMBER SILVERSTEIN: I didn't hear
8 you.

9 MR. MPRAS: I did not specify a
10 date because Investigator Suero did not
11 specify a date. He stated that on three
12 different occasions prior to the end of his
13 shift he went to Shadow Room between 1:30 and
14 1:45 a.m. in the morning to observe.

15 MEMBER SILVERSTEIN: Okay. So,
16 Mr. Suero, you said, Investigator, that you
17 went there prior to closing or at -- near
18 closing time --

19 INVESTIGATOR SUERO: Yes.

20 MEMBER SILVERSTEIN: -- on three
21 different Thursdays during this period?

22 INVESTIGATOR SUERO: Three

1 different weekend times during that period.

2 That's correct.

3 CHAIRPERSON MILLER: Three
4 different what?

5 MEMBER SILVERSTEIN: Thursdays
6 going into Friday morning?

7 INVESTIGATOR SUERO: Yes, ma'am.
8 Yes, sir.

9 MEMBER SILVERSTEIN: Very well.
10 Thank you.

11 MR. MPRAS: No further questions.
12 Thank you.

13 CHAIRPERSON MILLER: Is that it?

14 MS. HARMON: Yes.

15 CHAIRPERSON MILLER: Okay. Any
16 other Board questions? I'm just tempted with
17 one other question. What did you say earlier
18 as to why you didn't include all your
19 observations in the report?

20 INVESTIGATOR SUERO: What I did
21 was there was so many -- because we were
22 having a lot of different assignments

1 certainly, some times I had already been there
2 and I said well, I'll just come back later,
3 but I was just passing through, but I made a
4 point to stop and see what do I see on the way
5 back. And sometimes just on the way home, I
6 said let me just take a look real quick and
7 see what I can see.

8 CHAIRPERSON MILLER: In those
9 instances, did you document them at all?

10 INVESTIGATOR SUERO: I just made a
11 note the day that I went for myself, but I
12 definitely did go. If that's the question,
13 yeah, I did, but no, I didn't include it in
14 the run sheet.

15 CHAIRPERSON MILLER: Okay. All
16 right. Thank you very much.

17 INVESTIGATOR SUERO: You're quite
18 welcome.

19 CHAIRPERSON MILLER: Okay. There
20 is no follow-up on Board questions, is there?
21 Is there? I'm sorry.

22 MR. MPRAS: One question if you

1 don't mind.

2 Mr. Suero, did you go -- did you
3 do those additional three checks that you just
4 described now specifically because you know
5 that -- you knew the protestants stated they
6 were having issues, at that time?

7 INVESTIGATOR SUERO: At late
8 hours, exactly. When I spoke to them, they
9 made that clear.

10 MR. MPRAS: Thank you.

11 CHAIRPERSON MILLER: Okay.
12 Anything else? No. All right. Thank you
13 very much.

14 (Whereupon, witness temporarily
15 excused.)

16 CHAIRPERSON MILLER: Okay. So,
17 Mr. Mpras, you are not putting on any
18 witnesses, right?

19 MR. MPRAS: Right.

20 CHAIRPERSON MILLER: Okay. So we
21 are ready --

22 MR. MPRAS: But I do reserve the

1 right to have him testify for rebuttal, if
2 necessary.

3 CHAIRPERSON MILLER: Right. Got
4 it. Okay.

5 INVESTIGATOR SUERO: You will be
6 needing me, did you say?

7 CHAIRPERSON MILLER: I don't think
8 so, but you are here, right, if we need --
9 somebody needs to get --

10 INVESTIGATOR SUERO: Until 4:00.

11 CHAIRPERSON MILLER: Until 4:00,
12 okay.

13 MEMBER ALBERTI: So, Ms. Miller?

14 CHAIRPERSON MILLER: Yes?

15 MEMBER ALBERTI: I'm just curious.
16 So this is a renewal protest? Is that
17 correct?

18 CHAIRPERSON MILLER: Yeah, um-hum.

19 MEMBER ALBERTI: And I don't have
20 the statute in front of me, but as I read the
21 statute, the onus is on the licensee to show
22 that they meet the conditions for renewal.

1 CHAIRPERSON MILLER: Right.

2 MEMBER ALBERTI: That they aren't
3 a detriment to peace, order and quiet,
4 pedestrian or vehicular safety or property
5 values. So without any evidence, I'm not sure
6 how I can judge that, but I'm just --

7 CHAIRPERSON MILLER: Mr. --

8 MEMBER ALBERTI: -- trying to be
9 helpful to all the parties here. I think Mr.
10 Jones has something to say.

11 CHAIRPERSON MILLER: I just want
12 to respond to that briefly. Mr. Mpras has
13 said earlier that he wants to rely on the
14 testimony of our Investigator as their
15 witness, correct?

16 MR. MPRAS: As well as his report.
17 As well as his written report.

18 CHAIRPERSON MILLER: The written
19 report and he may have rebuttal witnesses.

20 MEMBER ALBERTI: Oh, I understand
21 that is his choice.

22 CHAIRPERSON MILLER: No, I didn't

1 say that, but, okay.

2 MEMBER JONES: I'll say it, that's
3 his choice.

4 CHAIRPERSON MILLER: Okay. But I
5 understand what you are saying your evidence
6 would be.

7 MR. MPRAS: Madam Chair?

8 CHAIRPERSON MILLER: We will know
9 further by then at the end of the hearing.

10 MR. MPRAS: Madam Chair, in that
11 case, let me call Mr. Das. Just hang on.

12 CHAIRPERSON MILLER: Okay. A
13 little longer hearing. All right.

14 MEMBER ALBERTI: Well, I --

15 CHAIRPERSON MILLER: He is not
16 waiving. I think he can adopt the use of the
17 Investigator.

18 MEMBER ALBERTI: He can adopt
19 anything he likes.

20 MEMBER JONES: He just chose not
21 to. It's his choice. It was his choice --

22 MEMBER ALBERTI: Yes.

1 MEMBER JONES: -- before. It's
2 his choice now. He is serving the best
3 interest of his client.

4 CHAIRPERSON MILLER: I'm not
5 stopping you. Go right ahead.

6 MR. MPRAS: Thank you, ma'am.

7 CHAIRPERSON MILLER: Good
8 afternoon. Would you please --
9 Whereupon,

10 SWAPTAK DAS
11 was called as a witness by Counsel for the
12 licensee, and having been first duly sworn,
13 assumed the witness stand and was examined and
14 testified as follows:

15 CHAIRPERSON MILLER: Okay.

16 DIRECT EXAMINATION

17 MR. MPRAS: Please, state your
18 name for the record.

19 MR. DAS: Swaptak Das.

20 MR. MPRAS: And please state how
21 you are involved with Shadow Room.

22 MR. DAS: I am an owner of Shadow

1 Room.

2 MR. MPRAS: And how long have you
3 been an owner of Shadow Room?

4 MR. DAS: Since the beginning when
5 we opened in 2008.

6 MR. MPRAS: Okay. And you are
7 directly involved in the operation of Shadow
8 Room?

9 MR. DAS: Yes.

10 MR. MPRAS: And can you tell me
11 your current hours of operation?

12 MR. DAS: It's Thursday, Friday,
13 Saturday from actually 10:00 p.m. to closing,
14 which is regular normal hours, Thursday until
15 2:00 a.m., Friday and Saturday is until 3:00
16 a.m.

17 MR. MPRAS: And those are just --
18 those are not your ABRA-permitted hours, those
19 are the hours that you are actually operating?

20 MR. DAS: Right. But -- right.

21 MR. MPRAS: Can you tell me what
22 kind of events you host there on each night?

1 MR. DAS: Sure. So Thursday night
2 we -- the only difference is we play hip-hop
3 music, but the cliental is usually -- I mean,
4 we invite anyone to come on -- in any of these
5 nights are intelligent, professional people
6 that do not create any problems. And we have
7 never gotten any noise complaints from MPD or
8 any Investigator.

9 There has been so many
10 Investigators over the years, because
11 everything we have done has been protested.
12 So anyway, to answer your question, Thursday
13 night is hip-hop music. Friday night is a mix
14 and Saturday night is house with a little bit
15 of hip-hop.

16 MR. MPRAS: And how many security
17 persons do you employ on each given night?

18 MR. DAS: So it depends on the
19 amount of people that are coming. Usually
20 about 11 to 12.

21 MR. MPRAS: The phrase Instant
22 Chaos was mentioned by the protestants in

1 their opening statement. Can you tell me what
2 Instant Chaos is?

3 MR. DAS: It's just a website.
4 It's not the name of the event. It's just a
5 website where we -- they -- individuals can
6 just get on the guest list and just know the
7 type of music, the hours and maybe look at
8 some pictures, that's all it is.

9 MR. MPRAS: So and who owns that
10 website?

11 MR. DAS: We do.

12 MR. MPRAS: So do you also run it?

13 MR. DAS: Right.

14 MR. MPRAS: I assume. Okay. And
15 is it primarily used for promotion
16 communication?

17 MR. DAS: Correct. Just
18 communication primarily.

19 MR. MPRAS: Okay. Now, during the
20 last three years since your last renewal, have
21 you had any sustained ABRA violations?

22 MR. DAS: No. Again, I don't know

1 if a letter constitutes a violation, but we
2 have had no issues with ABRA, no issues with
3 MPD. None.

4 MR. MPRAS: Have you ever been
5 issued a noise citation by DCRA?

6 MR. DAS: Absolutely not.

7 MR. MPRAS: Okay. Have you ever
8 been directly contacted by anybody regarding
9 noise issues, by any individuals?

10 MR. DAS: No.

11 MR. MPRAS: Or any specific
12 residence?

13 MR. DAS: No. We haven't been
14 contacted by residents, businesses. We have
15 also, you know, worked in communication with
16 the university to make sure we are
17 responsible. They haven't complained or
18 communicated anything that we are doing
19 adversely to them. So we have done everything
20 possible, because everything gets protested,
21 to be very, very, responsible.

22 MR. MPRAS: Here's something, Mr.

1 Das. In the protestant's opening statement,
2 they stated that George Washington University
3 is the landlord. Is that correct?

4 MR. DAS: Absolutely not. UAS is
5 the landlord. George Washington University is
6 a tenant just like we are. So if I want to
7 put cameras up, it really doesn't matter as
8 long as the landlord says no. We have asked
9 the landlord and we are not opposed to it as
10 far as the camera issue, but the landlord says
11 no, that they don't want the back of the
12 building being defaced.

13 MR. MPRAS: Are you somewhat
14 familiar with the MPD Reimbursable Detail
15 Program?

16 MR. DAS: I am.

17 MR. MPRAS: Okay. Now, is it
18 permitted to contract directly with police, as
19 protestants said in their opening remarks?

20 MR. DAS: I do not think so. The
21 only way that we have been able to work with
22 the police in the past is through the

1 reimbursable detail, to my knowledge.

2 MR. MPRAS: Now, Mr. Das, what
3 measures have you taken to ensure that the
4 patrons exit the venue in a quiet and orderly
5 manner?

6 MR. DAS: We have taken a lot of
7 suggestions. We have implemented some of our
8 own, but some from the protestants. We queue
9 our line away from the residents. Now, the
10 residents, in my opinion, they are very far
11 from our building because you have to walk
12 around the -- up to 22nd Street and then walk
13 half the block over, because that's still a
14 commercial property, that corner. And then
15 their building begins on the other side of the
16 block diagonally.

17 So we have asked them to queue
18 away from the residents, so towards 21st and
19 20th Street. We put up a sign inside our
20 venue asking people to be quiet. Our security
21 always asks people to be quiet. We ask the
22 valet to also talk to anyone that is waiting

1 for their car to be quiet.

2 And so any reasonable suggestions
3 that they have given, we have accommodated.
4 The only thing is now they want a police
5 detail and to our business that's a huge cost
6 that we would have to bear that we just think
7 is unfair when you are operating a great
8 business. We are responsible and we don't
9 feel like that is something that we should be
10 required to do when we haven't had any issues
11 with ABRA.

12 MR. MPRAS: Now, Mr. Das, how many
13 other ABC establishments have operations
14 similar to yours that are in the area?

15 MR. DAS: Many. I do not recall
16 what the Investigator said, but there are
17 many. So there is always people walking not
18 only in front of K Street, 22nd Street and on
19 L Street that are patrons that necessarily are
20 not from our venue.

21 MR. MPRAS: Okay.

22 MR. DAS: And to those incidents,

1 some times there might be something that
2 happens on the other side of the block or down
3 the block that maybe the police are called.
4 It has nothing to do with our establishment
5 and people inside our venue.

6 We follow regulations. If someone
7 has had too much to drink, we escort them out
8 or ask them to leave nicely. You know, but we
9 cannot control their actions when they walk a
10 couple of blocks somewhere.

11 MR. MPRAS: Okay. Mr. Das, is one
12 of the measures you have taken to make sure
13 the patrons, as best possible, exit in quiet
14 and caution -- do you put up signs to that
15 effect?

16 MR. DAS: Yes.

17 MR. MPRAS: Okay.

18 MR. DAS: There are signs.

19 MR. MPRAS: Do you also have your
20 DJ announce -- make that announcement at
21 closing time?

22 MR. DAS: Yes, the DJ does that.

1 MR. MPRAS: Have you ever refused
2 to meet with the ANC or any neighbor that has
3 requested a meeting?

4 MR. DAS: No. I mean, if they
5 email or call us, we will take a meeting.
6 There was only one time recently where I
7 couldn't be back in town in time, so we needed
8 to reschedule, but I didn't get a
9 communication back.

10 MR. MPRAS: But you are responsive
11 to every communication?

12 MR. DAS: Absolutely.

13 MR. MPRAS: Mr. Das, is there
14 anything else you would like to add?

15 MR. DAS: I think there was a
16 statement made in the opening statement that
17 I said that our security can't handle the
18 crowd. That is categorically wrong and false.

19 We are extremely responsible as
20 far as security. We actually host security
21 training once a month in our venue from an
22 individual, I think is it Robert, that comes

1 from California. We actually host it in our
2 venue. We send all of our security to that
3 training, that is above and beyond TIPS and
4 any other training that ABRA provides.

5 MR. MPRAS: So your security
6 training is refreshed an average of once a
7 month?

8 MR. DAS: Yes. And every one of
9 our security guards have to go through that
10 training.

11 MR. MPRAS: And is --

12 MR. DAS: So --

13 MR. MPRAS: -- the individual who
14 gives this training Mr. Robert Smith, by any
15 chance?

16 MR. DAS: That's right. That is
17 him. So I mean, we try to make -- take every
18 precaution that we possibly can. We think the
19 venue is run properly because from the
20 beginning we have made that a high priority.
21 We have a great security plan that is always
22 on premise and we follow it and train

1 regularly, so even if security individuals
2 that have been working for us for a few years,
3 we train them regularly to refresh them and
4 they know what the policies are of what we
5 would like to do.

6 MR. MPRAS: Okay. 2131 K Street,
7 do you know, approximately, how many floors
8 that building has?

9 MR. DAS: Including the basement,
10 nine.

11 MR. MPRAS: And would you have --

12 CHAIRPERSON MILLER: I'm sorry,
13 Mr. Mpras, how many what?

14 MR. MPRAS: Floors.

15 CHAIRPERSON MILLER: Thank you.
16 Okay.

17 MR. MPRAS: And do you know how
18 many tenants are in that building?

19 MR. DAS: It's 80,000 square feet,
20 I believe. And speaking to the calls, last
21 time we were in one of these hearings, there
22 was presented a -- there was X amount of

1 calls. I think it was 13 calls from 2131 K
2 Street. When we looked at the times, there
3 was none during our operational hours. And
4 that's the key. You know, are they being
5 called for Shadow Room is the key.

6 So I want to make two points that
7 we don't know of any calls since our last
8 renewal of police calls made to us or police
9 came to visit us for someone calling from the
10 outside. In addition to that, you know, per
11 the opening statement, we think we have a very
12 good grasp of our security as far as the noise
13 and that's why you have seen that in the
14 investigative report where numerous
15 Investigators have come unannounced.

16 We didn't even know they came that
17 many times, but they have never found
18 anything.

19 MR. MPRAS: Thank you, Mr. Das.

20 CHAIRPERSON MILLER: Do you have
21 cross?

22 MS. HARMON: No.

1 CHAIRPERSON MILLER: Oh, okay. Do
2 we have Board questions? Okay. Mr. Alberti?

3 MEMBER ALBERTI: Mr. Das, you have
4 valet service. Is that correct?

5 MR. DAS: Yes, sir.

6 MEMBER ALBERTI: Okay. People who
7 don't use valet service, where would they
8 park?

9 MR. DAS: Well, generally, the
10 majority --

11 MR. MPRAS: I object. Mr. Das has
12 no idea where somebody would park if --

13 MEMBER RODRIGUEZ: Let him answer
14 the question.

15 MEMBER ALBERTI: Let him -- Mr.
16 Mpras, please, let him answer the question to
17 the best of his ability. And if he has no
18 idea, he can tell me.

19 MR. MPRAS: Mr. Alberti, I do have
20 the right to object pursuant to DCMR to any
21 Board questions.

22 MEMBER ALBERTI: You do.

1 MR. DAS: I don't mind answering.

2 MEMBER ALBERTI: I have the right
3 to respond to your objections.

4 MR. MPRAS: Okay.

5 MR. DAS: Let me answer it. The
6 majority of the people that come are educated,
7 have corporate jobs, so they are taking taxis
8 because they might be consuming alcohol. So
9 the few people that come do take valet, but if
10 you ever come to our street if you look right
11 across the street on K Street, there is plenty
12 of parking there. So in my opinion, that if
13 the small percentage of people that are
14 actually driving that do not want to pay for
15 the valet, they can literally park right on K
16 Street and also right on L Street. You can
17 come at any hour, there is usually parking
18 there and plenty of meters available.

19 MEMBER ALBERTI: So L is right
20 behind your building?

21 MR. DAS: Right.

22 MEMBER ALBERTI: Okay.

1 MR. DAS: Can I make one more
2 comment --

3 MEMBER ALBERTI: Sure.

4 MR. DAS: -- to that? You know,
5 we want to be a responsible good business to
6 the neighborhood. Now, parking has been an
7 issue. We have told the protestants that we
8 would do anything in our power to make that
9 easier on them, i.e., if they wanted us to
10 write a letter or go down to DCRA and support
11 any signage changes or anything on 22nd Street
12 that they prefer, we are in full support of
13 that and would do anything that they require
14 us to do.

15 It's just, you know, we are on 21st
16 and K. I don't know how much influence we are
17 going to have, but we are happy to help and
18 put any time that we need to invest into that.

19 MEMBER ALBERTI: Okay. Now, at
20 closing time -- first of all, how -- what's
21 the capacity for your venue?

22 MR. DAS: 300.

1 MEMBER ALBERTI: 300. And on a
2 Thursday night, which seems to be the hot
3 topic here, it's prominently displayed on your
4 website, what's typically your capacity on a
5 good night?

6 MR. DAS: How many people come to
7 the establishment?

8 MEMBER ALBERTI: Usually, yeah.

9 MR. DAS: Maybe from 100 to 200.

10 MEMBER ALBERTI: At closing time--

11 MR. DAS: We usually --

12 MEMBER ALBERTI: -- about how
13 many?

14 MR. DAS: That's about 150,
15 because we usually keep the back closed.

16 MEMBER ALBERTI: Um-hum.

17 MR. DAS: So we have glass doors
18 that we can keep and 90 percent of the time
19 the back is actually closed. And it is never
20 packed to the point that you can't move. So
21 it's really not that many people, about 150
22 people, you know, during closing because it is

1 a work night, if you will. People have to go
2 to work the next day.

3 MEMBER ALBERTI: Um-hum. So just
4 out of curiosity, what is the back room used
5 for then typically?

6 MR. DAS: Oh, it's just closed.
7 There is just a glass door. There is another
8 bar there. There is nothing going on over
9 there.

10 MEMBER ALBERTI: But what would
11 you use it for? I mean, you have it
12 certainly.

13 MR. DAS: With the other nights.
14 When we -- let's say it's Saturday night when
15 we are busier, we open it and there is tables
16 there and there is a bar back there that can
17 be used.

18 MEMBER ALBERTI: Okay. So
19 Saturdays may be busier?

20 MR. DAS: Yes.

21 MEMBER ALBERTI: Okay. How many
22 people at closing on Saturday?

1 MR. DAS: Definitely 300 people on
2 Saturdays.

3 MEMBER ALBERTI: And they are all
4 coming out at once?

5 MR. DAS: It's the busiest night.
6 Excuse me?

7 MEMBER ALBERTI: And they are all
8 -- they all would be sort of coming out at
9 once? Within a small time frame?

10 MR. DAS: Right, right.

11 MEMBER ALBERTI: Is that correct?

12 MR. DAS: I mean, when we have to
13 close, we have to escort everyone out.

14 MEMBER ALBERTI: Sure.

15 MR. DAS: And so correct.

16 MEMBER ALBERTI: Okay. So what
17 steps do you make sure to -- that the crowd
18 disperses quickly and reasonably in an
19 undisrupted manner from the front of your
20 establishment?

21 MR. DAS: That's a great question,
22 because it's a key point of our training. We

1 have one person at the door, so there is no
2 reentry. The -- we put about three or four
3 security individuals outside to ask people to
4 walk and go to their cars and we point them
5 down 21st Street.

6 Those people that are in valet are
7 -- number one, we ask the valet to sometimes
8 send extra staff, because they are finished at
9 other venues, to help get the cars out faster.
10 We also train the valets to ask everyone to be
11 quiet. We queue them. We make sure until
12 their car comes, there is a security guard
13 that aids in the people getting in their car
14 rather than loitering and talking to friends.
15 No, you need to get in your car and you need
16 to move that car.

17 We aid in that process. So we
18 have three people plus usually two to three
19 valets literally working outside and that's
20 why the noise, in my opinion, there is -- you
21 know, the Investigator testified. And if you
22 look at our sales numbers from Saturday and

1 Thursday, everything I am saying can be
2 corroborated by that.

3 In addition to that, you know, the
4 comment was made that it was very cold in
5 January to February.

6 MEMBER ALBERTI: Right.

7 MR. DAS: Our sales were strong.
8 So the -- if you compare it to, let's say,
9 summer months, right, our sales were stronger,
10 so we had more people there. So it didn't
11 affect our business at all, so I did want to
12 make that point.

13 MEMBER ALBERTI: Okay. And when
14 you say you queue the valet people, where do
15 you queue them?

16 MR. DAS: We queue the valet right
17 out side of our ropes. I mean, where the cars
18 are parked?

19 MEMBER ALBERTI: No, no, no.
20 Where you queue the people --

21 MR. DAS: Yes.

22 MEMBER ALBERTI: -- who are

1 waiting.

2 MR. DAS: It's right outside our
3 ropes, so we can keep an eye on them. They
4 are not too far away. They are literally
5 about 5 feet away.

6 MEMBER ALBERTI: And generally,
7 how long does it take to disperse everyone
8 from the front of the -- get people in their
9 cars and make sure there are not people,
10 nobody is congregating, because the people are
11 waiting and their friends are hanging out.

12 MR. DAS: Right.

13 MEMBER ALBERTI: How long does it
14 take?

15 MR. DAS: The crowd that doesn't
16 have the car in valet, that's about 10
17 minutes.

18 MEMBER ALBERTI: Okay.

19 MR. DAS: Okay. Now, the valet
20 does the best that they can and it depends on
21 how busy we are and it usually takes 3 minutes
22 for them to get a car, but they have multiple

1 people working on it. Plus, we have spots
2 that are blocked off. I think it is six or
3 eight spots that are blocked off in front of
4 the venue that no one can park. It's for our
5 valet. So when they bring the car out, they
6 place it in those spots, so we are not
7 blocking the alley or the service road.

8 I also want to say that as far as
9 the service road is concerned, we have checked
10 with GW Hospital, they primarily use I Street
11 to get to the hospital. However, we take
12 great pains to make sure that service road is
13 clear, so traffic can flow through.

14 MEMBER ALBERTI: How many -- what
15 proportion of your patrons use valet, do you
16 think?

17 MR. DAS: It's a large portion
18 when it's a busy night. I mean, they are
19 successful and \$20 isn't -- they want the
20 convenience.

21 MEMBER ALBERTI: Sure.

22 MR. DAS: And so I would -- I

1 don't know the exact number, so I couldn't
2 venture a guess.

3 MEMBER ALBERTI: Okay.

4 MR. DAS: But we do know we have a
5 longer queue especially when it comes evening,
6 from that we think there is a lot of people
7 that use valet.

8 MEMBER ALBERTI: Okay.

9 MR. DAS: But we have the spaces.
10 We have never run out of spaces ever in our
11 parking garage.

12 MEMBER ALBERTI: Okay. Now, I
13 think there were requests to put a camera on
14 the front. Is that correct?

15 MR. DAS: I don't know the exact
16 request. We just took the email as it was and
17 forwarded it on to our landlord.

18 MEMBER ALBERTI: What's the email
19 as it was? What's it say?

20 MR. DAS: I don't recall.

21 MEMBER ALBERTI: Not the exact
22 words, but what's the nature of the request?

1 MR. DAS: Whether there was a
2 camera up front and back or front. I don't
3 remember exactly where it was, but they -- I
4 remember the response at the time from the
5 landlord was it would destroy the metal
6 sidings if they -- it was prefabricated and it
7 was very special to them. And the answer was
8 no.

9 MEMBER ALBERTI: Okay.

10 MR. DAS: And remember, we have
11 cameras inside our venue, so we are not
12 opposed to cameras.

13 MEMBER ALBERTI: I understand
14 that. I understand. I'm just exploring all
15 the possibilities here.

16 MR. DAS: Sure.

17 MEMBER ALBERTI: So do you have an
18 awning or anything that you have erected
19 outside?

20 MR. DAS: No. We -- when it
21 rains, we put up a little tent --

22 MEMBER ALBERTI: Okay.

1 MR. DAS: -- to protect the
2 patrons. But there is an awning off to the
3 side to the entrance to the building, but not
4 necessarily an awning.

5 MEMBER ALBERTI: Okay. I guess
6 let me phrase this a different way.

7 MR. DAS: Sure.

8 MEMBER ALBERTI: Have you explored
9 any alternatives with the landlord with
10 respect to how a camera might be monitored?

11 MR. DAS: Right. I have asked
12 that. Literally, I met with the -- I
13 personally met with the building engineer,
14 because they made a comment about the metal
15 fittings. I said all right, we will move it
16 up and put it on the concrete and the answer
17 came back really from the landlord, look, we
18 are not putting cameras.

19 MEMBER ALBERTI: Okay.

20 MR. DAS: It's just not something
21 that we want on the facade of our building,
22 because it's going to affect property value.

1 MEMBER ALBERTI: Okay.

2 MR. DAS: Was the exact wording.

3 MEMBER ALBERTI: Okay. I have no
4 further questions. Thank you.

5 CHAIRPERSON MILLER: Mr. Brooks?

6 MEMBER BROOKS: Yes, thank you,
7 Madam Chair. Mr. Das, do you have an occasion
8 to personally go outside near closing times
9 during the weekends especially to see how
10 things are going?

11 MR. DAS: Absolutely.

12 MEMBER BROOKS: And have you
13 noticed any issues that raise your concerns?

14 MR. DAS: No, sir. I wish people
15 would just literally -- I could take a video
16 or just walk you to see how far the beginning
17 of the residence building is. The noise comes
18 from the traffic, you know, because there is
19 the underpass from K Street.

20 And you can ask your
21 Investigators, there are so many that have
22 come out, that there -- I have been there and

1 I know this is a big issue, so I try to --
2 either me, one of my managers or Steve are
3 usually outside during closing to keep an eye
4 on that, because we know that's such a big
5 issue, you know, to our license.

6 So, you know, someone is usually
7 outside monitoring that.

8 MEMBER BROOKS: Okay. The garage,
9 now is it open to the public?

10 MR. DAS: No.

11 MEMBER BROOKS: Okay. So it's
12 only for valet parking?

13 MR. DAS: Yes, it's leased just
14 for our use.

15 MEMBER BROOKS: Okay.

16 MR. DAS: But for those times that
17 we are open. We are again from 10:00 p.m. to
18 closing, so during the day, it is open to the
19 public. After 6:00 p.m., it is strictly for
20 our use.

21 MEMBER BROOKS: Okay.

22 MR. DAS: And we do not allow

1 general public to park in there. It has to be
2 valet parking.

3 MEMBER BROOKS: Okay. My final
4 question. Do you have periodic or regular
5 meetings with the ANC and the condo
6 association officers?

7 MR. DAS: Well, we -- the extent
8 that we have meetings, we have offered our
9 contact information. To the extent we have
10 meetings, we go in front of the ANC to always
11 ask for extended hours and they yell and
12 scream at us. They don't let us respond. and
13 then they say no. And so that's the extent of
14 our interaction.

15 But quite frequent, Steve goes
16 quite frequently to ask for extended hours and
17 we never get them approved.

18 MEMBER BROOKS: Okay. So the -- I
19 understand that the only time you really have
20 face-to-face meetings is when you go ask for
21 longer hours?

22 MR. DAS: Correct.

1 MEMBER BROOKS: There's no other
2 occasions where you might just have a -- they
3 put you on the agenda and you just bring them
4 up to date on how things are going and share
5 them -- share with them information and vice
6 versa? That doesn't occur?

7 MR. DAS: It doesn't occur and I
8 would be happy to, but I wish you would have--
9 you could be at some of the ANC meetings where
10 we are there. It's not what I deem as a fair
11 process or system, because we sometimes don't
12 even get the chance to respond to concerns or
13 questions, which is very troubling to me. We
14 just stand there and they just make
15 accusations.

16 MEMBER BROOKS: Okay. Well, how
17 about the condo association?

18 MR. DAS: The association, they
19 work together. I mean --

20 MEMBER BROOKS: They being who?

21 MR. DAS: Mr. Labas and Florence.
22 They live in the same building. They

1 coordinate everything. If one person does
2 this, the other person does the same thing.
3 They work together, so it's the same thing.
4 They both live in the same building. They
5 work together. It seems like it's two
6 separate organizations, but, in our opinion,
7 it's coordinated and it's one organization.

8 So I mean, we have tried to work
9 with them since 2006. It took us over a year
10 and a half just to get our license. We
11 applied, I think, in 2006. You know, they
12 have protested everything and put up road
13 blocks on everything we have tried to do. I
14 don't know what else we can do.

15 MEMBER BROOKS: Thank you, Madam
16 Chair.

17 CHAIRPERSON MILLER: Okay.

18 MEMBER RODRIGUEZ: I have a few
19 questions.

20 CHAIRPERSON MILLER: All right.
21 Mr. Rodriguez?

22 MEMBER RODRIGUEZ: Yes, sir, where

1 does your staff park?

2 MR. DAS: The staff parks usually
3 -- well, usually, they -- we tell them to park
4 on L Street, but they asked us to -- we try to
5 keep the -- there is -- behind our building to
6 the right, there is parking spaces for another
7 building.

8 MEMBER RODRIGUEZ: Right.

9 MR. DAS: And they didn't want
10 patrons to be parking there, because they said
11 they are making noise. So they asked us to
12 tell the staff to park there to take up those
13 spaces, so no -- and so we have asked them in
14 writing, hey, park behind the building to take
15 up those spaces. So that's another step that
16 we took.

17 MEMBER RODRIGUEZ: And my second
18 question is your deliveries. Are all your
19 deliveries in the rear?

20 MR. DAS: Right. They are during
21 the day. And so we have a loading dock and I
22 don't think they are -- that has ever been an

1 issue. They are all in the rear of the
2 building, you know, following all the
3 necessary requirements.

4 MEMBER RODRIGUEZ: Okay. Thank
5 you.

6 MR. DAS: Sure.

7 CHAIRPERSON MILLER: Mr.
8 Silverstein?

9 MEMBER SILVERSTEIN: Thank you,
10 Mr. Das. As far as your parking garage, which
11 Mr. Suero had referred to, how many spaces are
12 in there?

13 MR. DAS: There is 55 regular
14 spaces, but double parked it can accommodate
15 up to 75.

16 MEMBER SILVERSTEIN: You say that
17 this garage is for your use only after 6:00
18 p.m. If I'm a patron of your's, can I use the
19 garage or do I have to have valet to do so?

20 MR. DAS: The valet has leased the
21 garage and is responsible for the insurance
22 and the upkeep of the garage. And so to

1 make sure we have enough valet spaces, based
2 on our voluntary agreement, you know, it's for
3 our use. So if we open it up to the public,
4 maybe people from other buildings could park
5 there and then we wouldn't be able to
6 accommodate those cars. So that's why per
7 their request, we keep it just for valet.

8 MEMBER SILVERSTEIN: Fine. And on
9 a Thursday night/Friday morning, your last
10 call is what time?

11 MR. DAS: Thursday night is 2:00.
12 Into Friday morning, it's 2:00 a.m.

13 MEMBER SILVERSTEIN: Is your last
14 call?

15 MR. DAS: Oh, I'm sorry. The last
16 call is like we do like 1:40, 1:30, something
17 around then. Just per the --

18 MEMBER SILVERSTEIN: About how
19 many people on a Thursday night use the
20 garage? What's your --

21 MR. DAS: I can get you the exact
22 numbers. We have done it before. About 20.

1 MEMBER SILVERSTEIN: About 20.

2 And so for that it wouldn't be a -- you are
3 saying -- no, I'm not going to put words in
4 your mouth.

5 On a Thursday night/Friday morning
6 with 20 people, you would not have a long line
7 or would you have a line outside for the
8 people waiting for their cars?

9 MR. DAS: At the end of the night,
10 yes, there might be five or six people. When
11 I saw five or six people, they might have
12 guests, because there might be multiple people
13 in the car. Yes, and if it's a busy night,
14 there might be -- you know, as soon as close,
15 there is people waiting right in front of our
16 building, but they are calm, quiet.

17 You know, if anyone raises their
18 voice, our security immediately goes over to
19 them and asks hey, could you, please, do me a
20 favor and they queue up in valet.

21 MEMBER SILVERSTEIN: So your
22 people do queue up in valet and you have

1 probably 10 or so people, maybe a little more
2 than that, on a Thursday night?

3 MR. DAS: About 10.

4 MEMBER SILVERSTEIN: Friday
5 morning.

6 MR. DAS: You know, at any given
7 time, because --

8 MEMBER SILVERSTEIN: And on a
9 Saturday night which doesn't appear to be a
10 big protest thing, how big of a line would
11 there be on Saturday night when you are
12 probably -- are you -- on Saturday night, do
13 you use most of the spaces?

14 MR. DAS: No. I think the maximum
15 data that I have seen has been about 25 spaces
16 to 30 spaces that are used. There is always
17 spaces available, but on Saturday night there
18 is, sometimes depending on if it's a really
19 busy night, about 15 people at the height
20 waiting for their car.

21 MEMBER SILVERSTEIN: 15 drivers or
22 15 passengers?

1 MR. DAS: No. Total.

2 CHAIRPERSON MILLER: Oh.

3 MR. DAS: So maybe seven cars.

4 You know, because they come out at different
5 times and the valet gets the car out and a lot
6 of people leave before 3:00 a.m. The crowd
7 that stays until 3:00 a.m., those individuals
8 -- so at max, about seven people, about 15
9 people.

10 MEMBER SILVERSTEIN: That's why I
11 asked about last call, because one would think
12 that some -- do some people leave before they
13 close, simply so they don't have to wait in
14 line for a car?

15 MR. DAS: Right, correct.

16 MEMBER SILVERSTEIN: But if there
17 are only 25 or 30 cars being used, where are
18 the -- and you are having 300 people, how are
19 the other folks --

20 MR. DAS: Most of them Uber or use
21 taxi cabs. So there is -- you know, on a
22 Saturday night and even on Thursday nights,

1 you just see private cars kind of like the
2 black sedans, so that's what they use.

3 MEMBER SILVERSTEIN: Okay. No
4 further questions.

5 CHAIRPERSON MILLER: Yes, Mr.
6 Jones?

7 MEMBER JONES: Thank you, Madam
8 Chair. Since we are talking about the parking
9 situation, I just want to make sure it's
10 clear. So you, generally, see roughly about
11 20 spaces being used, in terms of your valet
12 parking?

13 MR. DAS: Right.

14 MEMBER JONES: And you are saying
15 that the majority of people do -- the majority
16 of your patrons do or do not use valet?

17 MR. DAS: Well, I would say the
18 majority of the -- I don't have the exact
19 figures, but I think the majority of people
20 get a ride from like a taxi or car service.
21 But I would say --

22 MEMBER JONES: So that -- what you

1 just said, I think your answer is the majority
2 of the people don't use valet.

3 MR. DAS: Correct.

4 MEMBER JONES: The majority of
5 patrons do not use valet.

6 MR. DAS: Correct.

7 MEMBER JONES: Okay. Do you have
8 any empirical evidence that speaks to what
9 form of transportation they use to get to your
10 establishment, if they don't use valet?

11 MR. DAS: No, sir. You have
12 asked --

13 MEMBER JONES: So you're just
14 guessing?

15 MR. DAS: Yes, sir.

16 MEMBER JONES: Okay.

17 MR. DAS: You asked --

18 MEMBER JONES: So it is possible
19 that you have patrons that -- it is possible
20 that you have more patrons that actually drive
21 to your establishment than you realize,
22 because you don't have any numbers to back up

1 your assertions.

2 MR. DAS: Absolutely, sir.

3 MEMBER JONES: At this point.

4 MR. DAS: Absolutely.

5 MEMBER JONES: Okay. So it is
6 possible that the majority of your patrons
7 actually drive to your establishment, because
8 you don't have any evidence to counter that
9 statement. Is that correct?

10 MR. DAS: Absolutely possible.

11 MEMBER JONES: Okay. So if you
12 are saying the maximum you see is 20 cars
13 parked in your valet, that would be if you
14 average about four, most, patrons per vehicle,
15 that's about 80 patrons.

16 MR. DAS: Correct, sir.

17 MEMBER JONES: So that would leave
18 about 220 patrons on your busy night that
19 possibly drive to your establishment.

20 MR. DAS: Yes, sir.

21 MEMBER JONES: Correct?

22 MR. DAS: Yes, sir.

1 MEMBER JONES: Okay. Do you have
2 any idea how many cars that would be, assuming
3 all of them drove?

4 MR. DAS: I would have to do some
5 math. Assuming all of them, there were 220
6 divided by, let's say three, whatever that
7 number would be, but I think that's a tough
8 assumption because we see so many cabs and
9 cars picking patrons up. So I think you would
10 have to kind of acknowledge that some of them
11 are taking that mode of transportation.

12 MEMBER JONES: Um-hum.

13 MR. DAS: But per your question if
14 you assume that they were -- none of them were
15 taking cabs or private cars, 220 divided by 3,
16 I think, is reasonable.

17 MEMBER JONES: 220 divided by 3?

18 MR. DAS: Yeah.

19 MEMBER JONES: Okay.

20 MR. DAS: Yes. And the one other
21 thing I would like to say, because everyone is
22 asking about parking, we really want to help

1 out with parking. You know, we don't want to
2 cause any problems for the neighbors.
3 Anything that we can do on our end, we'll be
4 happy to do. In the past, I have provided you
5 with numbers of the valet service, as far as
6 how many cars they park and things like that.

7 So we are on your side on this
8 one. Whatever we can help, I would be more
9 than happy to.

10 MEMBER JONES: Thank you for that
11 commentary. The number, as you said, 220
12 divided by 3, that was roughly about 70 cars.

13 MR. DAS: Okay.

14 MEMBER JONES: Approximately, if
15 my math is correct, approximately. So let's
16 go down the path that you were going down.
17 Let's not assume that everyone that isn't
18 using valet is driving. Let's say half of
19 those people are driving, so that's roughly 35
20 cars.

21 MR. DAS: Okay.

22 MEMBER JONES: If you have 35

1 cars, is it -- has there been any
2 consideration given to opening up more of the
3 spaces in your 75 car parking facility, since
4 you only see about 20 to 25 cars being used by
5 valet, why not change the distribution and/or
6 ratio by which you make your spaces available?
7 Since you have 75 available all the time
8 anyway. Has that ever been considered? And
9 if so, why hasn't it been implemented?

10 MR. DAS: Well, we considered it
11 when we first opened, but from -- the
12 protestants suggested they wanted the cars to
13 be just for valet to make sure we can
14 accommodate them, because if we just open to
15 general patrons, now maybe some other
16 establishments that are open, people could
17 come park there.

18 Plus, I don't think the issue is
19 would they park there? I think the issue is
20 if they don't want to pay for parking, they
21 are going to park on the street.

22 MEMBER JONES: Um-hum.

1 MR. DAS: And there is plenty of
2 parking right -- not only on our side of the
3 building, if you just kind of go down one
4 block, because it's all office buildings and
5 there is no one there. But if you go right
6 across the street from us and on L Street,
7 there is plenty of parking.

8 I do acknowledge that some people
9 may be parking on 22nd Street, which is, I
10 think, their concern. If there is any way I
11 can help with that? But if --

12 MEMBER JONES: So would you
13 consider opening up 20 to 30 of your available
14 75 spaces as a mechanism to help? You're
15 saying you are willing to do anything, you are
16 willing to do everything.

17 MR. DAS: Right.

18 MEMBER JONES: You said that
19 multiple times.

20 MR. DAS: Right.

21 MEMBER JONES: Is that one of the
22 everythings that you would be willing to do?

1 MR. DAS: Absolutely.

2 MEMBER JONES: Okay.

3 MR. DAS: Now, the part --

4 MEMBER JONES: Is there anything
5 that would -- any encumbrance that would keep
6 you from doing that?

7 MR. DAS: That's a great question.
8 The landlord owns the parking garage and so it
9 might be an insurance issue, but we can look
10 into it and facilitate that, but absolutely
11 can look into it. So the landlord might be
12 the barrier to that.

13 MEMBER JONES: Okay. Fair enough.

14 MR. DAS: As far as just general
15 people parking, rather than --

16 MEMBER JONES: Let's talk about
17 security real quick. So you mentioned that
18 you have three to four people posted out front
19 during -- when closing?

20 MR. DAS: Correct.

21 MEMBER JONES: Okay. What's their
22 range, i.e., how far away from the front door

1 or the building access point or the egress
2 from which your patrons are leaving the
3 establishment, how far away are they allowed,
4 based on their training, to patrol?

5 MR. DAS: Well, we tell them to,
6 number one, keep their safety in mind first,
7 but they can go all the way down to the block.

8 MEMBER JONES: How --

9 MR. DAS: And to talk to --

10 MEMBER JONES: -- far is that?

11 MR. DAS: So I'm guessing down
12 either side, I think, towards 22nd Street is
13 150 feet to 22nd Street. I think it's 200
14 feet to 21st Street. This is just a guess.

15 MEMBER JONES: All right.

16 MR. DAS: So they can go down the
17 block and talk to people and ask them to be
18 quiet and, you know, leave orderly, but if
19 there is an altercation or anything like that,
20 if they are not where we are responsible for,
21 they must come back, call the police and let
22 management know.

1 MEMBER JONES: So where are you
2 responsible for, that's what I'm trying to
3 figure out.

4 MR. DAS: We are responsible for
5 in front of our venue where the ropes are.
6 However, we do facilitate beyond that as long
7 as safety is not an issue, because we can just
8 go talk to someone and be like hey, can you do
9 me a favor.

10 MEMBER JONES: Well, what's the
11 extent of that domain?

12 MR. DAS: Um --

13 MEMBER JONES: You said to where
14 ropes are. I have no idea where that is.

15 MR. DAS: The ropes are, I would
16 say, like 7 feet x 7 feet box right outside of
17 our door.

18 MEMBER JONES: Okay. So you are
19 able to break up a fight, an altercation that
20 occurs within that 7 x 7 box immediately in
21 front of your door?

22 MR. DAS: Correct.

1 MEMBER JONES: Anything outside of
2 that, what do you do? What does your training
3 call for?

4 MR. DAS: A, to let -- notify us
5 and --

6 MEMBER JONES: Who is us?

7 MR. DAS: Management.

8 MEMBER JONES: Okay.

9 MR. DAS: And call the police,
10 because that's not our property.

11 MEMBER JONES: Okay. So anything
12 that occurs that appears to be violent in
13 nature --

14 MR. DAS: Right.

15 MEMBER JONES: -- regardless of
16 whether you see it as being a nexus to your
17 establishment or not, are your security staff
18 trained to contact you first and then contact
19 police?

20 MR. DAS: The police, right.

21 MEMBER JONES: And so do they call
22 911?

1 MR. DAS: They would call 911.

2 MEMBER JONES: They would call
3 911. Has that ever occurred?

4 MR. DAS: Ah --

5 MEMBER JONES: It being, has there
6 ever been an identified altercation occurring
7 outside of your 7 x 7 domain area where your
8 security staff has contacted 911?

9 MR. DAS: I personally have done
10 it twice since we have been open since 2008.

11 MEMBER JONES: Okay. So has your
12 security staff done it, as per their training?

13 MR. DAS: I can't recall, sir.

14 MEMBER JONES: You can't recall.
15 Are you responsible for keeping incident
16 reports?

17 MR. DAS: Yes.

18 MEMBER JONES: Okay.

19 MR. DAS: They are in --

20 MEMBER JONES: Would that type of
21 action be recorded in an incident report? Do
22 you have any incident reports that reflect

1 that?

2 MR. DAS: I can't recall off the
3 top of my head since 2008, but, I mean, I'm
4 sure. I just can't remember. I don't want to
5 give you the wrong answer.

6 MEMBER JONES: Fair enough. You
7 indicated earlier that you have tried to work
8 with the community?

9 MR. DAS: Correct.

10 MEMBER JONES: But you felt as
11 though it was somewhat adversarial?

12 MR. DAS: Correct.

13 MEMBER JONES: My words, not
14 yours, but that's how I would characterize
15 what you were saying. Is that a fair
16 characterization?

17 MR. DAS: That is, sir.

18 MEMBER JONES: Okay. What
19 attempts have you made to try -- adversarial
20 relationships don't usually foster on their
21 own. They usually emerge through dealings.
22 So what things have you done to help mitigate

1 this, what is perceived to be, adversarial
2 type of relationship?

3 MR. DAS: We have done many
4 things.

5 MEMBER JONES: Can you specify --

6 MR. DAS: Sure.

7 MEMBER JONES: -- what those
8 things are?

9 MR. DAS: We started in 2008. We
10 went to our ANC meetings. We have reached out
11 to a number of ANC members. We have asked
12 them to come to our establishment, come at
13 night, and I think two of them have done that
14 during the hours that we have been open, to
15 see the cliental.

16 But the way the ANC works is they
17 all defer to Florence for this one issue and
18 they will just vote with her. We have made
19 numerous attempts to get together with them,
20 but the things that they ask for are
21 unreasonable, such as closing early and police
22 detail, which is going to be very expensive.

1 Both are very detrimental to our business and
2 their intention is to shut us down, not to
3 work with us.

4 MEMBER JONES: Okay. And how did
5 you come to that conclusion that their
6 intention is to shut you down?

7 MR. DAS: Because everything that
8 they ask for, there is a monetary value to it.
9 You know, even when we have been in mediation,
10 we said hey, if parking is the issue, we will
11 do whatever is necessary. You know, we just
12 cannot incur more costs when we are -- we feel
13 that we are running a responsible
14 establishment.

15 And we don't -- it would be very
16 detrimental to us to limit our hours and we
17 could go out of business and probably would go
18 out of business, so we couldn't agree to those
19 two concerns. And those were documented over
20 the years.

21 MEMBER JONES: Okay. So what
22 specifically were things that you did directly

1 in response to a request from the community?

2 MR. DAS: A whole voluntary
3 agreement, all the steps that are in our
4 voluntary agreement, you know, from when trash
5 is collected to, you know, making sure we
6 patrol, you know, in front of our building to
7 make sure trash is collected, if there are any
8 flyers.

9 We don't pass out flyers. None of
10 our promoters do and we don't do that. We put
11 up the signage. We ask the employees to park
12 in the back. We have limited the valet, the
13 parking garage to only our valet, so there is
14 always enough parking available. And that's
15 just off the top of my head. If I had the
16 voluntary agreement in front of me -- we
17 announced -- we ask the DJ to announce,
18 please, be quiet. We have a sign out front.
19 So --

20 MEMBER JONES: And these are all
21 things that have been done directly in
22 response to concerns raised to you by the

1 community?

2 MR. DAS: These are concerns and
3 suggestions they have asked for.

4 MEMBER JONES: Okay. Fair enough.
5 And lastly, related to the camera. So you
6 said that you have made an attempt to install
7 cameras on the outside?

8 MR. DAS: Right. We even told
9 them, hey, you know, you can talk to the
10 landlord.

11 MEMBER JONES: Who is the them?
12 I'm sorry.

13 MR. DAS: The protestants.

14 MEMBER JONES: Okay.

15 MR. DAS: If you want to talk to
16 the landlord, this is not something that we
17 have an issue with. If you want to talk to
18 them and convince them, then by all means. So
19 we don't want it to seem like hey, we are
20 stopping this process, because we are not
21 anti-cameras. If we were, we wouldn't have
22 cameras inside our venue.

1 MEMBER JONES: Okay. Have you or
2 anyone on your staff explored the utilization
3 of mag-mount wireless cameras for temporary
4 install to be synced up with your existing
5 system?

6 MR. DAS: I have not, sir.

7 MEMBER JONES: You have not.

8 MR. DAS: It's the first time I
9 have heard about it.

10 MEMBER JONES: Okay. Thank you.
11 Thank you, Madam Chair.

12 CHAIRPERSON MILLER: Okay.
13 Others? Oh, yes, Mr. Short?

14 MEMBER SHORT: Yes, good
15 afternoon. How are you?

16 MR. DAS: Good.

17 MEMBER SHORT: You have been in
18 business for how long now?

19 MR. DAS: Since 2008, sir.

20 MEMBER SHORT: Since 2008. And
21 how many incidents have you had at your
22 business where the police had to be called?

1 MR. DAS: How many incidents where
2 they protested us or how many --

3 MEMBER SHORT: No. How many
4 incidents have you had at your business where
5 MPD had to be called?

6 MR. DAS: Well, when we had a
7 police detail when we first opened in 2008, we
8 noticed that if the slightest thing happened,
9 the police have to document it per -- that's
10 their rules and regulations. If someone just
11 grabs someone's shirt, they had to document
12 it. And so there was a lot of 251s when we
13 actually had a police detail.

14 And then when we didn't have the
15 police detail, those incidents completely
16 dropped. So in the last three years, the ones
17 that I know of are zero. And if there were
18 any, they would have shown up on the ABRA
19 report.

20 So since our last renewal, as I'm
21 aware of, it's zero.

22 MEMBER SHORT: Oh, as far as you

1 are aware of?

2 MR. DAS: Right. Now, somebody
3 might have called the police then on 20th
4 Street and they may -- the patron may have
5 come from us, I'm not saying that may have
6 not, or they may come from some of the other
7 surrounding establishments with similar
8 licenses. I think we said nine or so. so
9 that might have happened that if they didn't
10 submit it to ABRA, I wouldn't know about it.

11 So the only way I find out with
12 those types of incidents is if it's submitted
13 to ABRA.

14 MEMBER SHORT: So should I assume
15 you are saying you are safer now since you
16 don't have a police detail?

17 MR. DAS: No, I don't think that's
18 -- I don't think the safety has changed. It's
19 just the documentation has changed. And I
20 think we were safe from the beginning. I
21 don't think the safety has changed at all.
22 It's just it was just a huge cost that we just

1 couldn't bear to be in business.

2 MEMBER SHORT: Well, the cost of
3 business sometimes is -- when you -- your kind
4 of business, especially when you have live
5 entertainment and you have large crowds, there
6 is room for things to happen that could be
7 contrary to your business, correct?

8 MR. DAS: Correct, sir.

9 MEMBER SHORT: So what do you do
10 if that does happen? I mean you have been
11 very fortunate that apparently you haven't had
12 that happen. What does your security team do
13 if there is someone that does have a weapon?

14 MR. DAS: Well, number one, we do
15 do searches at our establishment, especially--

16 MEMBER JONES: To include?

17 MR. DAS: Huh?

18 MEMBER JONES: To include what
19 kind of searches?

20 MR. DAS: Pat-downs. We -- pat-
21 downs. If we find any weapons, we just do not
22 let the patron in. And so there has been

1 times that we have used barring notices. So
2 we haven't had that issue, but, however, if we
3 do have any issue like that inside our venue,
4 we would absolutely call the police and ABRA,
5 because we don't want to be in a situation
6 where, you know, it looks like we are trying
7 to hide something, where clearly we have
8 cameras in our building and that could make --
9 could cause a lot more problems.

10 Correct. So if something serious
11 happened inside our venue, we would call ABRA
12 and the police.

13 MEMBER SHORT: Okay. Do you
14 consider yourself a good neighbor or good
15 business person in the community?

16 MR. DAS: Yes, sir, I do.

17 MEMBER SHORT: Well, why are you
18 having such problems with the ANC and the
19 community?

20 MR. DAS: I can't answer that
21 question, sir.

22 MEMBER SHORT: Do they consider

1 you a good businessman, your --

2 MR. DAS: I mean, they didn't want
3 us in -- because we are -- we have a CN
4 License and they consider us a nightclub, they
5 just don't want us on that block. They feel
6 that it affects their property value. When if
7 you look at the property value and the
8 details, it has all gone up.

9 MEMBER SHORT: That's true in
10 probably all of Washington, D.C., isn't it?
11 Most -- the majority of the property.

12 MR. DAS: Correct, sir, but I'm
13 just speaking to the point that they feel like
14 it is going to bring their property value
15 down. We think it has helped the block where
16 there is a lot more lighting. There was
17 homeless loitering going on before we were in
18 the space.

19 MEMBER SHORT: Let's say if you
20 lived on 22nd Street, would you be happy that
21 your business was there?

22 MR. DAS: Absolutely, sir.

1 MEMBER SHORT: You would?

2 MR. DAS: I would ask you to come
3 down and walk it during our hours and see if
4 you can hear any noise. It's so far away and
5 there are so many Investigators that have come
6 down and they are like really, this is what
7 they complain about? I would ask you to come
8 down the hours that we are open and come out
9 with the same conclusion, your own conclusion.
10 I feel very confident with that, sir. And if
11 you look at our cliental, I feel very
12 confident about that.

13 MEMBER SHORT: So again, you are
14 against having a police detail at your
15 business?

16 MR. DAS: I am, sir.

17 MEMBER SHORT: Only because of
18 cost?

19 MR. DAS: Cost and it actually
20 created more problems with being here because
21 sometimes there was all these 251s and nothing
22 happened. You know, if you look at the 251s

1 when we first opened, they weren't serious.
2 A lot of them weren't serious, but the -- I
3 understand the police were doing their job.
4 They have to document every -- anything that
5 happens.

6 So it increases the number of 251s
7 that we get, but you will see no further
8 action, no further action on those 251s.

9 MEMBER SHORT: Thank you, Madam
10 Chair.

11 CHAIRPERSON MILLER: You're
12 welcome. Others? Okay. I just have a few
13 questions.

14 MR. DAS: Sure.

15 CHAIRPERSON MILLER: Mr. Mpras, I
16 was wondering, do you have a copy of the
17 Investigator's report?

18 MR. MPRAS: Yes, I do, ma'am.

19 CHAIRPERSON MILLER: Would you
20 mind just showing it to Mr. Das? I just want
21 him to look at the Legend, which is the street
22 layout, so that I can ask a question.

1 MR. MPRAS: Do you know what page
2 that is on?

3 CHAIRPERSON MILLER: That's
4 Exhibit 6, the Legend that shows where 2131 K
5 Street is located on the grid. So this is
6 Exhibit 6 to the Investigator's report. I
7 just want to get a feel for where everything
8 is.

9 There is a dot that says 2131 K
10 Street and a line that says Shadow Room. Do
11 you see that?

12 MR. DAS: Yes.

13 CHAIRPERSON MILLER: Okay. So to
14 the left of it is something called Arrowwine,
15 right? Is that a nightclub? What is that?

16 MR. DAS: No, no, that's a
17 commercial building.

18 CHAIRPERSON MILLER: Okay.

19 MR. DAS: I can make a line
20 exactly where the residence starts and --

21 CHAIRPERSON MILLER: Okay.

22 MR. DAS: -- Ms. Harmon, the

1 protestant --

2 CHAIRPERSON MILLER: Right.

3 Because I'm interested in where the residents
4 are and also where the other establishments
5 "like you" are.

6 MR. DAS: Yes. I don't know where
7 the other establishments like me are with the
8 hours that they have, but I can show you where
9 the residents are.

10 CHAIRPERSON MILLER: Okay.

11 MR. DAS: Can I borrow a pen?

12 CHAIRPERSON MILLER: 22nd Street,
13 oh, beside this.

14 MEMBER SILVERSTEIN: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MR. DAS: Okay. The only area
17 that we circled is where the residents are.
18 Everything else on K Street is all commercial.
19 On the front facing location where it says
20 Arrowwine, that's actually a commercial
21 building.

22 CHAIRPERSON MILLER: Right.

1 MR. DAS: And it's closed, that's
2 where the Starbuck's is. It's this circle
3 right here. This is about 150 feet this way.

4 CHAIRPERSON MILLER: Okay.

5 MR. DAS: And then you have to
6 walk another 150 feet to hit the first, we
7 actually measured it, residence. And so these
8 two circles are where -- they haven't
9 protested ever, this building here. This is
10 where the protestants live.

11 CHAIRPERSON MILLER: Okay. If you
12 can describe it for the record. In this
13 triangle piece, is that where you are looking
14 at?

15 MR. DAS: Right. It's in the
16 triangle piece, but --

17 CHAIRPERSON MILLER: Around from
18 22nd Street?

19 MR. DAS: It's on the right,
20 ma'am.

21 CHAIRPERSON MILLER: Oh.

22 MR. DAS: And then it's on the --

1 if you look at the corner where L and 22nd
2 intersect, it's just that corner and halfway
3 up the block, not all the way, to K Street.
4 Because the other half is commercial and they
5 are closed. I can maybe provide this --

6 CHAIRPERSON MILLER: Okay.

7 MR. DAS: -- for you.

8 CHAIRPERSON MILLER: Yes, I can't
9 see. Can I just see it for a second? Okay.

10 MR. DAS: So the total walking
11 distance would be about 300 feet, if you added
12 turning to 22nd Street before you get to their
13 building.

14 CHAIRPERSON MILLER: Okay. So
15 there are at 22nd and L? Is that --

16 MR. DAS: Correct.

17 CHAIRPERSON MILLER: Okay. And
18 you are between 21st and 22nd on K?

19 MR. DAS: Correct.

20 CHAIRPERSON MILLER: Right? Okay.

21 And how about I thought we heard that there
22 were other places that also let out at the

1 same time, so it was difficult to determine
2 whose noise was whose.

3 MR. DAS: Look is right here.

4 CHAIRPERSON MILLER: Where is
5 Look? Can you identify it on the street?

6 MR. DAS: Look is right there on--
7 it's on --

8 CHAIRPERSON MILLER: Oh, I see,
9 okay. It's further down K Street.

10 MR. DAS: Right. And so if they
11 are going to GW, they would have to walk by
12 Shadow Room. There is places like The Foggy
13 Bottom Pub, the McFadden's is within this
14 circle. It's right very close to the circle.

15 CHAIRPERSON MILLER: Right. Okay.
16 So let me ask you then, if they all have -- to
17 the best of your knowledge, do they let out at
18 the same time, same closing time?

19 MR. DAS: The ones that have
20 entertainment, I know Look does. There is
21 another restaurant up the street that has big,
22 big crowds and they are a pretty large

1 establishment. It's called Cities, so they
2 let out at the same time, because we see those
3 patrons walking by and they are much larger
4 and have more -- larger capacity than us and
5 they have an outdoor -- big outdoor area as
6 well.

7 CHAIRPERSON MILLER: So are you
8 aware of instances where the police have had
9 to intervene outside to -- for disruptive
10 behaviors?

11 MR. DAS: In front of our
12 building?

13 CHAIRPERSON MILLER: Yes, in front
14 of your building, in the area?

15 MR. DAS: You know, over the
16 years, yes. I have actually personally called
17 police myself what's happening down the block
18 and public safety is our number one issue, so,
19 yes. In 2008, I have seen police on our
20 block.

21 CHAIRPERSON MILLER: Okay. What I
22 heard you testify to was it sounded to me that

1 you didn't think there was a need for the
2 police detail, that you haven't had a need for
3 it. And that's one of the reasons you would
4 be against our ordering that there be
5 reimbursable detail in your case.

6 MR. DAS: Right. Ma'am, we --
7 those incidents that occurred, you know, it
8 was from -- the ones that I called two since
9 2008. And they are probably documented and
10 you have an ABRA report, etcetera. But some
11 of those could be patrons that were coming
12 from other venues like Cities and Look.

13 I know Look has had some issues
14 and a different cliental. So I don't think it
15 could be attributed to us, you know.

16 CHAIRPERSON MILLER: Okay. Let me
17 ask you, who is your cliental?

18 MR. DAS: You know, we are open to
19 the general public. However, we know usually
20 80 to 90 percent of the people that come in.
21 And they are business owners. They are
22 professionals. We do a lot of web-based

1 dissemination of information.

2 MEMBER ALBERTI: Wait a second.

3 MR. DAS: So we own a software
4 company and it's our friends, it's those types
5 of individuals that kind of come to our
6 establishment.

7 CHAIRPERSON MILLER: Okay. And
8 did you say you do a pat-down?

9 MR. DAS: Correct. On Thursdays.

10 CHAIRPERSON MILLER: On Thursdays?

11 MR. DAS: Another suggestion that
12 the protestants had and I think the Board
13 actually gave us a suggestion once, so we do
14 pat-downs, right.

15 CHAIRPERSON MILLER: That was why?
16 It was in response to the protestants and to
17 an earlier Board?

18 MR. DAS: Right. And they offered
19 that as a suggestion and we said great, we
20 will do a pat-down on Thursdays.

21 CHAIRPERSON MILLER: But you have
22 never had -- have you ever had an incident

1 with a weapon?

2 MR. DAS: Never found a weapon
3 that I'm aware of, but we do do the pat-down.
4 We haven't had any incidents with anyone
5 discharging a weapon or using a weapon inside
6 our venue.

7 MEMBER ALBERTI: That's good.

8 CHAIRPERSON MILLER: Were you
9 protested at the -- at your last renewal?

10 MR. DAS: I believe so. I mean,
11 every opportunity, we get protested.

12 CHAIRPERSON MILLER: Okay.

13 MR. DAS: So --

14 CHAIRPERSON MILLER: And when --
15 you referred to your voluntary agreement.
16 When did you enter into that?

17 MR. DAS: I believe it was 2007
18 before we opened or it might have been 2008
19 that we actually signed it. But we applied
20 for our liquor license in 2006. It took a
21 year and a half for us to get it.

22 CHAIRPERSON MILLER: Okay. Thank

1 you. Yes, Mr. Jones?

2 MEMBER JONES: Just a quick
3 follow-up to that. You mentioned the cost of
4 reimbursable detail would be, I can't remember
5 your exact words, but I got the impression,
6 significantly detrimental to your business.
7 Is that true?

8 MR. DAS: (No audible answer.)

9 MEMBER JONES: Well, excuse me.
10 Did I characterize your statement correctly?

11 MR. DAS: It would add a
12 significant cost to our business, yes.

13 MEMBER JONES: Okay. Does
14 security add a significant cost to your
15 business?

16 MR. DAS: Not as much as a
17 reimbursable detail. It can get very
18 expensive because you have to have two
19 officers and you have to have them for a
20 specific amount of time.

21 MEMBER JONES: How do they
22 compare? How much -- what's your annual,

1 monthly, weekly, however it is you break it
2 down, what's your cost for security staff?
3 You had 11 security staff --

4 MR. DAS: Yes.

5 MEMBER JONES: -- you mentioned?

6 MR. DAS: Excuse me?

7 MEMBER JONES: How many security
8 staff do you have?

9 MR. DAS: It depends on the event,
10 but on --

11 MEMBER JONES: Big nights, big
12 nights?

13 MR. DAS: -- busy nights, 10 to
14 12.

15 MEMBER JONES: 10 to 12.

16 MR. DAS: Correct.

17 MEMBER JONES: So 12 security
18 staff, you spend how much on that night for
19 the 12 security people.

20 MR. DAS: Times \$15 an hour, I can
21 do the math real quick, if you would allow me.

22 MEMBER RODRIGUEZ: \$185 an hour.

1 \$182 an hour.

2 MR. DAS: That would be about
3 \$720, sir.

4 MEMBER JONES: And how does that
5 compare to reimbursable detail for two
6 officers for a four-hour period?

7 MR. DAS: I believe it is -- I
8 don't know the exact number, but \$400 or \$500,
9 but that would be in addition to our security
10 staff, because they are not inside.

11 MEMBER JONES: Understood. How
12 much do you charge per head cover night for a
13 cover charge?

14 MR. DAS: Most people get in
15 without paying a cover, because of the
16 cliental and we know them.

17 MEMBER JONES: Okay. How much
18 revenue do you generate on a night when you
19 have 300 people in your establishment?

20 MR. DAS: \$15,000 to \$20,000, but
21 our rent -- I'm sorry, may I say this? We
22 lease 9,800 square feet. We applied for a

1 liquor license for downstairs that was given
2 to us and taken away. We are paying double
3 rent and we are not able to open downstairs.

4 And so I can show you our numbers,
5 but that is where a lot of our money is going,
6 because we couldn't get a liquor license for
7 downstairs.

8 MEMBER JONES: So the impact of
9 the reimbursable detail would reduce your
10 profit margin. It wouldn't shut your doors?

11 MR. DAS: It could shut our doors,
12 because we are in our eighth year and our
13 revenues have been declining, so absolutely,
14 if you added that cost on there, it could
15 absolutely shut us down.

16 MEMBER JONES: Would it?

17 MR. DAS: Probably, sir.

18 MEMBER JONES: When?

19 MR. DAS: I don't know. I mean,
20 that's -- you know, we don't have that much
21 cash reserves in the bank, but, you know, when
22 we run out of money, we can't pay rent any

1 more. It would --

2 MEMBER JONES: Okay. So I just
3 want to make sure. so realistically, you are
4 communicating to me that an extra \$400 a night
5 would shutter your doors in a short period of
6 time?

7 MR. DAS: Sir, we could go over
8 our taxes and you could look at it.

9 MEMBER JONES: I could. I'm not
10 asking that. I'm asking you just to tell me
11 definitively.

12 MR. DAS: Yes, yes.

13 MEMBER JONES: So \$400 a night
14 would shutter your doors in a short period of
15 time?

16 MR. DAS: That would be about
17 \$1,500. Let's say \$1,500 per week. You are
18 looking at per month \$6,000. That would be
19 the additional cost that we are looking at per
20 month on top of the double rent. Our rent
21 comes out to be about \$50,000 -- \$51,000 a
22 month.

1 MEMBER JONES: Okay. And the cost
2 of that is more painful to you than,
3 obviously, the impact that it has on what the
4 community's perception of is, of your
5 willingness to meet them on this need?

6 MS. HARMON: Yes.

7 MR. DAS: I mean, sir, it could
8 shut us down, but our stance has been we run
9 a pretty --

10 CHAIRPERSON MILLER: I'm sorry. I
11 don't think that this line of questioning
12 should go too much further, because I don't
13 really think it's fair. I think that his
14 testimony was that he didn't think that it was
15 needed for safety reasons.

16 MEMBER JONES: That's fine. But
17 I'm not asking him that.

18 CHAIRPERSON MILLER: Okay. Do you
19 have much more on this? Because this is
20 about, you know, the protestants' protest.

21 MEMBER JONES: Do you feel like my
22 concern is related to reimbursable detail,

1 which is directly related to safety in the
2 community as off-base or off-track?

3 CHAIRPERSON MILLER: I think that
4 we are going too far down the financial road.
5 And I don't think that they --

6 MEMBER JONES: Well, I'm just
7 exploring what he put forward as his rational
8 for not doing it. So he is saying that the
9 cost is higher than what he is willing to pay
10 for the safety that reimbursable detail could
11 potentially bring to that area. But so I just
12 think it's fair to ask those questions to
13 explore that further based on the testimony
14 that he provided.

15 I don't believe I am far-afield
16 nor do I believe I'm out of range.

17 CHAIRPERSON MILLER: Okay. I
18 don't think we need to ask too many questions
19 on that.

20 MEMBER JONES: Why?

21 CHAIRPERSON MILLER: Because I
22 think we got --

1 MEMBER JONES: If I haven't gotten
2 the answers that I'm looking for, why can't I
3 ask more questions?

4 CHAIRPERSON MILLER: Okay.

5 MEMBER JONES: I'm just curious.
6 I'm just trying to understand what your
7 rational is.

8 CHAIRPERSON MILLER: My rational
9 is I want to keep the hearing focused on the
10 protest.

11 MEMBER JONES: Do you feel it's
12 not focused, based on those questions?

13 CHAIRPERSON MILLER: I think when
14 we go down the road too far into their
15 finances, we are getting a little off-focus.
16 That's my position.

17 MEMBER JONES: Okay. That's fine.

18 CHAIRPERSON MILLER: Okay.

19 MEMBER JONES: Well, based on her
20 feedback then, I won't allow you to answer the
21 question any further, although it may have
22 been helpful for me. Thank you.

1 CHAIRPERSON MILLER: You can
2 answer --

3 MEMBER JONES: Thank you, Madam
4 Chair.

5 CHAIRPERSON MILLER: -- the
6 question. I wanted to know how many more
7 questions we had on that --

8 MEMBER JONES: I'm finished.

9 CHAIRPERSON MILLER: -- field.

10 MR. DAS: Sir, may I just say
11 this?

12 MEMBER JONES: No. I'm -- no,
13 don't answer the question. Thank you.

14 MR. DAS: I don't want you to be
15 mad at me.

16 MEMBER JONES: I don't want you to
17 answer questions.

18 CHAIRPERSON MILLER: Okay. You
19 can just be mad at me, that's okay. If there
20 is something you feel you need to say for your
21 case, you can, but I just didn't feel we
22 needed to go too far into your taxes and

1 things like that.

2 MR. DAS: Would that anger you if
3 I made another comment, sir?

4 CHAIRPERSON MILLER: No.

5 MEMBER JONES: My opinion,
6 obviously, doesn't matter. Feel free to
7 answer the Chairman's questions.

8 MR. DAS: I don't know what to do.

9 CHAIRPERSON MILLER: Okay. I
10 don't want you to answer to please one of us.
11 All I'm saying is if there was something you
12 needed to say for your case, you could.

13 MR. DAS: I just --

14 CHAIRPERSON MILLER: I'm not
15 prohibiting an answer on that topic.

16 MR. DAS: If you look at our
17 record, we had less incidents as, you know
18 ABRA incidents, time has progressed and we had
19 police details before and we had more
20 documented incidents. I don't know if adding
21 that extra \$6,000 a month makes it any safer.

22 We are addressing our concerns

1 inside the ropes, inside the building and if
2 we ever need help, we are calling the
3 authorities as needed. I just think it's
4 going to be an added cost to our business and
5 it's not going to make it any safer.

6 I just don't think it's fair. You
7 know, it's a tough economy out there. We are
8 just trying to survive. We have three years
9 left on the lease. We are just asking for
10 some level of understanding that we are just
11 trying to run a business. We have 60 people
12 that we employ. That's all.

13 CHAIRPERSON MILLER: Okay.

14 MEMBER JONES: So perspective-
15 wise, no issue with that. And the reason why
16 I was asking the question is I'm not foreign
17 to business. So I just try to understand if
18 you were realistically communicating to me
19 that the extra \$400 would truly shut you down,
20 if you have any construct as to how you got
21 there. Would it shut you down in six months?
22 Would it shut you down in 12 months? Because

1 that would impact my perception associated
2 with that.

3 MR. DAS: Well, I would like to
4 answer that.

5 MEMBER JONES: Thank you. I'm
6 glad you would like to answer it.

7 MR. DAS: Under 12 months it would
8 probably shut us down, because that would be
9 \$6,000 per month on top of our current rent.

10 MEMBER JONES: Okay.

11 MR. DAS: And multiply that by 12,
12 you know.

13 MEMBER JONES: No, no, that's
14 fine. I got it. I can do the math. Thank
15 you.

16 MR. DAS: And I'm in the cross-
17 fire here, I can't do math.

18 CHAIRPERSON MILLER: Okay. All
19 right.

20 MEMBER ALBERTI: Some of us here
21 can, so don't worry about it.

22 MEMBER JONES: Don't worry about

1 it.

2 MEMBER JONES: Thank you for your
3 indulgence, sir. I appreciate you allowing me
4 to ask you questions.

5 MR. DAS: No problem.

6 CHAIRPERSON MILLER: I have one
7 follow-up question.

8 MR. DAS: Sure.

9 CHAIRPERSON MILLER: The
10 protestants have, in particular, identified
11 Thursday night as a problem. And your
12 testimony seems to be there aren't any
13 problems. But is there anything about
14 Thursday night that you would concede might be
15 a problem and that you can address or that you
16 have addressed?

17 MR. DAS: If you look at our
18 documented incidents in our security log,
19 there is more documentation on a Saturday
20 night or on a Friday night than Thursday
21 nights.

22 Thursday night is hip-hop night.

1 We attract more minorities. That's the only
2 difference, but it's not like there is more
3 police that are called just on those nights or
4 we have more incidents in our incident log.
5 That's it.

6 We actually have -- that's our
7 easiest night. You can ask any one of our
8 managers arbitrarily, it's actually, for us,
9 our easiest night to operate.

10 CHAIRPERSON MILLER: This is going
11 to be my last question. I think that I could
12 see why you would want to put him as a
13 rebuttal witness, but -- because we haven't
14 heard the protestants yet, so I'm
15 anticipating, but the fact that it's a work
16 night, is that an issue compared to Friday or
17 Saturday, that it would disturb people more?

18 MR. DAS: Again, from what the
19 Investigators have reported and anyone from
20 ABRA, even MPD, no one has said noise has been
21 an issue at our establishment. So we cannot--
22 it's so far away.

1 The few people that are outside,
2 the traffic outside, the traffic going by K
3 Street is louder than those individuals. You
4 can't hear the music. If you literally stand
5 10 feet away from the building and their
6 building is 300 feet, you can't hear the
7 music.

8 CHAIRPERSON MILLER: Okay. Yes,
9 if you have one more question. Then I'll turn
10 to you. Go ahead.

11 MEMBER RODRIGUEZ: Have you laid-
12 off any employees in the last six months?

13 MR. DAS: We -- well, not in the
14 last six months, but over the last three
15 years, our sales have gone down. And so we
16 have scheduled less employees. As far as our
17 employment is concerned, yes, sir.

18 MEMBER RODRIGUEZ: Okay. But have
19 you laid-off any employees in the last six
20 months?

21 MR. DAS: We have -- we try not to
22 layoff, because we schedule them, because we

1 are only open three nights a week, so it's not
2 a full-time job.

3 MEMBER RODRIGUEZ: I see.

4 MR. DAS: So it's how many
5 employees do we use, do we schedule, so our
6 business isn't conducive to layoff, if you
7 will. We just use a lot less employees and a
8 lot less individuals, because business has
9 been down.

10 MEMBER RODRIGUEZ: Okay. Thank
11 you.

12 CHAIRPERSON MILLER: Do you confer
13 with other ABC establishments in the area to
14 coordinate at all with respect to addressing
15 community problems?

16 MR. DAS: From what we are aware
17 of, really I don't know if -- I know they have
18 a big issue with McFadden's as well. But they
19 are predominately maybe a different crowd than
20 what we -- the crowd is a little bit older and
21 professionals. So we haven't, but we would be
22 happy to do that.

1 CHAIRPERSON MILLER: Okay. Other
2 Board questions? Questions on Board
3 questions?

4 MR. MPRAS: Yes, ma'am.

5 REDIRECT EXAMINATION

6 MR. MPRAS: Mr. Das, there were
7 some questions about your interaction with the
8 ANC. Has the ANC requested you to attend
9 meetings to provide them updates?

10 MR. DAS: No, not that I'm aware
11 of.

12 MR. MPRAS: Okay. Had they made
13 such a request, would you have appeared?

14 MR. DAS: Absolutely.

15 MR. MPRAS: Any requests they have
16 made, have you responded to?

17 MR. DAS: Absolutely.

18 MR. MPRAS: Okay. And to your
19 understanding, is the issue at-hand noise from
20 the club or noise from the patrons once they
21 are a block away from the club?

22 MR. DAS: Could you just rephrase?

1 MR. MPRAS: To your understanding,
2 the concern about noise, is it noise emanating
3 from the venue itself or is it noise emanating
4 from the patrons that have possibly departed
5 the venue?

6 MR. DAS: Possibly departed our
7 venue or any other venue. It's away from us,
8 not --

9 MR. MPRAS: So you are saying it's
10 -- my question is the noise is from
11 individuals who are walking the street?

12 MR. DAS: Right.

13 MR. MPRAS: And not under your
14 control. Is that correct?

15 MR. DAS: Right. And they could
16 be coming from the university or from another
17 night life establishment.

18 MR. MPRAS: As has been documented
19 in the Investigator's report. Now, let me ask
20 you something. When you have a special event
21 and you are expecting an unusually large
22 crowd, would -- have you scheduled

1 reimbursable details for special events of
2 this type?

3 MR. DAS: Yes, yes, we have. If
4 we are expecting a really, really large crowd,
5 every year that we have operated, we schedule
6 reimbursable detail. We have had a
7 reimbursable detail every year we have
8 operated, especially if we are thinking it's
9 going to be a large crowd.

10 MR. MPRAS: And, --

11 MR. DAS: We voluntarily have done
12 that.

13 MR. MPRAS: -- Mr. Das, your ABRA
14 incidents have continued to go down more or
15 less every year from your prior testimony. Is
16 that correct?

17 MR. DAS: Correct.

18 MR. MPRAS: Okay. And they have
19 gone down to zero for 2013?

20 MR. DAS: Correct.

21 MR. MPRAS: And as far as your
22 employees, I am under the understanding that

1 you don't want to lay anybody off, but was
2 your testimony that you had to cut back
3 individual shifts rather than lay them off?

4 MR. DAS: Right.

5 MR. MPRAS: Okay.

6 MR. DAS: And that has been
7 significant.

8 MR. MPRAS: I understand. No more
9 questions. Thank you.

10 CHAIRPERSON MILLER: Okay. Any
11 questions? Okay. Thank you very much.

12 MR. DAS: Thank you for your time.

13 MR. MPRAS: Thank you.

14 MR. DAS: Appreciate it.

15 MR. MPRAS: No further witnesses,
16 Madam Chair.

17 CHAIRPERSON MILLER: Okay. Ms.
18 Harmon?

19 MR. MPRAS: But I do reserve the
20 right to recall for rebuttal.

21 CHAIRPERSON MILLER: Okay.

22 MS. HARMON: We have Trevor Neve

1 here.

2 CHAIRPERSON MILLER: Wait, you
3 need --

4 COURT REPORTER: Turn your mike
5 on.

6 MS. HARMON: I'm sorry. We have
7 Trevor Neve who is President of the Condo
8 Board. So when Mr. Labas starts testifying,
9 since they both live in the same condominium,
10 I'll have Mr. Neve -- there is a rule that --
11 it's nothing personal towards you, but it's
12 just they don't want witnesses to collaborate
13 their testimony.

14 So the counsel for the licensee
15 asked we invoke it and I agreed, so we just
16 have --

17 MR. NEVE: Shall I step out?

18 MS. HARMON: Would we need to have
19 Mr. Neve step out during the --

20 CHAIRPERSON MILLER: Yes.

21 MS. HARMON: -- private
22 investigator? He does not live in that area.

1 CHAIRPERSON MILLER: The private
2 investigator already testified.

3 MR. MPRAS: The rule does apply to
4 all witnesses.

5 CHAIRPERSON MILLER: The private--

6 MS. HARMON: You go ahead and step
7 out. And I also have Steve Mendelbaum.

8 CHAIRPERSON MILLER: Okay.

9 MS. HARMON: A resident from our
10 condominium also. And, Mr. Mendelbaum, this
11 is standard procedure, but in trial-like
12 proceedings, they can request that the witness
13 not collaborate their testimony. So they have
14 asked that the witnesses step outside.

15 We are going to have Mr. Crumbley
16 testify, so we will come get you when we're
17 ready.

18 MR. MENDELBAUM: Okay. All right.

19 CHAIRPERSON MILLER: Thank you.

20 MS. HARMON: Is there a waiting
21 area or something they can sit in?

22 CHAIRPERSON MILLER: Well, right

1 outside, yeah.

2 MEMBER ALBERTI: Ms. Walker, will
3 assist them.

4 MS. HARMON: Okay. Great. Great.

5 CHAIRPERSON MILLER: Thank you.

6 So your police office is not here yet,
7 correct?

8 MS. HARMON: Yeah, yeah.

9 CHAIRPERSON MILLER: Okay. So who
10 will you be putting on the witness stand now?

11 MS. HARMON: Pardon me?

12 CHAIRPERSON MILLER: Who are you
13 proceeding with?

14 MS. HARMON: I'm proceeding with
15 Derek Crumbley.

16 CHAIRPERSON MILLER: Okay.

17 MS. HARMON: He was listed on our
18 PIF.

19 CHAIRPERSON MILLER: Okay. Come
20 forward.

21 MS. HARMON: Okay. I'll call him
22 to the stand.

1 CHAIRPERSON MILLER: Good
2 afternoon.

3 MR. CRUMBLEY: Good afternoon.
4 Whereupon,

5 DEREK CRUMBLEY
6 was called as a witness for the protestant,
7 and having been first duly sworn, assumed the
8 witness stand and was examined and testified
9 as follows:

10 CHAIRPERSON MILLER: Okay. Thank
11 you.

12 DIRECT EXAMINATION

13 MS. HARMON: Would you state your
14 name for the record and describe your
15 occupation?

16 MR. CRUMBLEY: Derek, D-E-R-E-K,
17 last name Crumbley, that's C-R-U-M-B-L-E-Y.
18 I'm a licensed private investigator.

19 MS. HARMON: As -- are you
20 licensed in the District of Columbia?

21 MR. CRUMBLEY: Yes, I am.

22 MS. HARMON: Okay. As part of

1 your job, were you retained to monitor the
2 front entrance of Shadow Room Night Club
3 located at 2131 K Street?

4 MR. CRUMBLEY: Yes, I was retained
5 on Tuesday, March 4th.

6 MS. HARMON: Okay.

7 MR. CRUMBLEY: 2014.

8 MS. HARMON: On Tuesday, March 4,
9 2014. And what night did you monitor? What
10 period did you monitor?

11 MR. CRUMBLEY: On Thursday
12 evening, March 4 -- I'm sorry, March 6, 2014
13 beginning at 10:00 p.m. that evening going
14 into Friday morning until 3:00 a.m.

15 CHAIRPERSON MILLER: Until what
16 time?

17 MR. CRUMBLEY: Until 3:00 a.m.

18 CHAIRPERSON MILLER: Okay.

19 MR. CRUMBLEY: On Friday morning,
20 the 7th.

21 MS. HARMON: And who retained you?

22 MR. CRUMBLEY: Florence Harmon as

1 a representative of the Condo Association at
2 22nd Street, N.W., Washington, D.C.

3 MS. HARMON: Okay. Did you, in
4 preparation for this assignment, review any
5 literature about Shadow Room prior to your
6 surveillance of Shadow Room?

7 MR. CRUMBLY: Yes, I did. It was
8 a brief one-page flyer indicating a pretty
9 regular event that was held called or referred
10 to as Instant Chaos on Thursday evenings. It
11 began at 10:00 p.m. and ran to 2:00 a.m. They
12 provided a DJ. It outlined proper attire was
13 required for the patrons and so forth.

14 MS. HARMON: A point of procedure,
15 Madam Chair, do -- should I approach you and
16 hand you the exhibits or how should the
17 copies --

18 CHAIRPERSON MILLER: Ms. Walker
19 will get it.

20 MS. HARMON: Okay.

21 CHAIRPERSON MILLER: And does Mr.
22 Mpras have a copy also?

1 MS. HARMON: Yes, I'll give Mr.
2 Mpras a copy.

3 CHAIRPERSON MILLER: Okay.

4 MS. HARMON: I'm going to proffer
5 this as Exhibit 1, Protestants Exhibit 1. And
6 I'm going to hand a copy to Mr. Crumbley.

7 Mr. Crumbley, is this an accurate
8 -- true and accurate copy of the information
9 you reviewed about Shadow Room's Thursday
10 night Instant Chaos program?

11 MR. CRUMBLEY: Yes, it is.

12 MS. HARMON: Okay. And when I
13 look at it, is there, let's see, an admission?

14 MR. CRUMBLEY: Upon review it, I
15 don't see an admission on here.

16 MS. HARMON: Yes. Look under
17 event. If you could look -- focus on event
18 details on the first page at No. 1, what does
19 that say?

20 MR. CRUMBLEY: Complimentary
21 admission.

22 MS. HARMON: Okay.

1 MR. CRUMBLEY: Free until 11:00
2 p.m.

3 MS. HARMON: Okay. And what does
4 No. 2 under event details state regarding
5 music?

6 MR. CRUMBLEY: Music, hip-hop, top
7 40 and R&B.

8 MS. HARMON: Okay. And what does
9 No. 3 under event details state?

10 MR. CRUMBLEY: Hosted by
11 urbanstan.com and DT Nation.

12 MS. HARMON: Okay. So is this
13 reflective of the information you reviewed
14 before you set out on your assignment for
15 Thursday night?

16 MR. CRUMBLEY: Yes, it is.

17 MS. HARMON: Okay. So I would
18 move that exhibit -- Protestant Exhibit 1 be
19 accepted into evidence. It's from the Shadow
20 Room website.

21 CHAIRPERSON MILLER: Any
22 objection?

1 MR. MPRAS: I would like to know
2 what basis, what the relevance of this
3 document is. It is Shadow Room's website, but
4 what are they offering it into evidence for?

5 MS. HARMON: Well, I think there
6 is going to be, in the past protest
7 proceedings, significant testimony that
8 Thursday nights are a problem. So we are just
9 setting -- providing information that the
10 investigator reviewed as part of his
11 assignment to inform him on this particular
12 event.

13 CHAIRPERSON MILLER: Okay. I'm
14 going to admit it as Protestant's Exhibit No.
15 1.

16 (Whereupon, the document was
17 marked for identification as
18 Protestant Exhibit 1 and was
19 received in evidence.)

20 MS. HARMON: And could you
21 describe for us the surveillance in front of
22 Shadow Room on the evening of Thursday, March

1 6, 2014?

2 MR. MPRAS: I object. She -- on
3 direct, she has to ask specific questions, not
4 allow the witness to provide a narrative.

5 CHAIRPERSON MILLER: I'm sorry,
6 you object what?

7 MR. MPRAS: The witness must
8 respond to specific questions, not -- he can't
9 be given an open forum for a narrative.

10 CHAIRPERSON MILLER: I thought
11 that was fairly specific. What surveyance did
12 he observe?

13 MS. HARMON: I don't think the
14 Rules of Evidence apply as formal as it would
15 in a courtroom proceeding, so --

16 CHAIRPERSON MILLER: That is
17 correct.

18 MS. HARMON: Okay.

19 CHAIRPERSON MILLER: I'll let it
20 go.

21 MS. HARMON: Oh, I can rephrase.
22 Did your surveillance include any video? Did

1 you capture any video that evening?

2 MR. CRUMBLEY: Yes, I did. I did
3 obtain video on the evening of March 6, 2014
4 at the Shadow Room Night Club outside of the
5 main entrance.

6 MS. HARMON: Okay. Now, we don't
7 have a screen where you can see the video that
8 I'm about to play. Would it be appropriate --

9 CHAIRPERSON MILLER: He can move
10 to --

11 MS. HARMON: -- for the witness to
12 stand.

13 CHAIRPERSON MILLER: -- a
14 microphone where he can see the video.

15 MEMBER SILVERSTEIN: He can look
16 over his head.

17 MEMBER ALBERTI: You can move to a
18 microphone at your table.

19 CHAIRPERSON MILLER: Yes, at the
20 table. Are you going to comment on the video?

21 MS. HARMON: Yes, I was going to
22 have him relate --

1 CHAIRPERSON MILLER: He can sit at
2 the table.

3 MS. HARMON: -- attest to its
4 accuracy that it is the video he took.

5 CHAIRPERSON MILLER: Okay.

6 MEMBER ALBERTI: Just one moment.
7 Has Mr. Mpras had a chance to see this video?

8 (Video played.)

9 MS. HARMON: No.

10 MR. MPRAS: I have not.

11 MS. HARMON: But I did list it on
12 the PIF.

13 MEMBER ALBERTI: Well, wait, wait.
14 Can we just hold it for a second and have a
15 ruling from the Chair where we should be
16 seeing this until Mr. Mpras has a chance to?
17 Can we shut this off for a moment, please?

18 MS. HARMON: Let me see. I'm
19 trying.

20 MEMBER ALBERTI: Until Mr. Mpras
21 has a chance to decide whether he wants to
22 object or not?

1 (Video stopped.)

2 MEMBER ALBERTI: I mean, I think
3 that's only fair that he --

4 MS. HARMON: Okay. Certainly.

5 MEMBER ALBERTI: -- have a chance
6 to -- it's just like any other exhibit.

7 MS. HARMON: Okay. Should I play
8 it for --

9 MEMBER ALBERTI: I'll --

10 CHAIRPERSON MILLER: Wait a
11 second.

12 MEMBER ALBERTI: Wait, wait. I'll
13 leave that up to the Chair, but that's my --

14 CHAIRPERSON MILLER: How long is
15 the video?

16 MS. HARMON: I'm sorry, could --

17 CHAIRPERSON MILLER: How long is
18 the video?

19 MS. HARMON: It's about two
20 minutes.

21 CHAIRPERSON MILLER: Okay. Mr.
22 Mpras, what is your position?

1 MR. MPRAS: If it's two minutes
2 and it wouldn't be an inconvenience, I would
3 like to see it prior to it being shown to the
4 Board.

5 CHAIRPERSON MILLER: Okay.

6 MS. HARMON: Okay.

7 CHAIRPERSON MILLER: So I guess
8 the Board can take a break.

9 MEMBER ALBERTI: Yes, we can take
10 a break.

11 CHAIRPERSON MILLER: We can take a
12 break.

13 MEMBER ALBERTI: Yeah.

14 CHAIRPERSON MILLER: I don't see a
15 problem with that.

16 MR. MPRAS: Thank you for bringing
17 that to my attention.

18 MEMBER ALBERTI: Sure.

19 MS. HARMON: Should we have -- oh,
20 excuse me. I'm sorry. We have another video
21 we are going to introduce. Should I show this
22 at the same time to Mr. Mpras?

1 CHAIRPERSON MILLER: Absolutely.

2 MEMBER ALBERTI: Yes, the whole
3 thing.

4 CHAIRPERSON MILLER: So how much
5 time do you need?

6 MS. HARMON: We probably need 10
7 minutes.

8 CHAIRPERSON MILLER: Okay. So we
9 will --

10 MR. MPRAS: 15.

11 CHAIRPERSON MILLER: Right. Okay.
12 It has been a while, so the Board will recess
13 until 4:15.

14 MEMBER ALBERTI: I don't like this
15 going to the Court of Appeals, so --

16 (Whereupon, at 3:58 p.m. a recess
17 until 4:21 p.m.)

18 CHAIRPERSON MILLER: Okay. We are
19 back on the record. When we recessed,
20 protestants were about to play a video and we
21 gave licensee the opportunity to view the
22 video first to see if there were any

1 objections.

2 So are there?

3 MR. MPRAS: Madam, we have
4 reviewed all the videos. I believe the first
5 one they are going to proffer is -- was taken
6 by Mr. Crumbley.

7 MR. CRUMBLEY: Yes.

8 MR. MPRAS: And we would ask
9 before it is entered into evidence for Mr.
10 Crumbley to testify that he was the one that
11 took the video.

12 CHAIRPERSON MILLER: Right.

13 MR. MPRAS: Date and time. That
14 it has always been in his possession.

15 CHAIRPERSON MILLER: Okay.

16 MR. MPRAS: And it's the entire
17 video not edited.

18 CHAIRPERSON MILLER: Okay.

19 MS. HARMON: Would you like me to
20 ask the witness --

21 COURT REPORTER: Ms. Harmon,
22 please, turn your mike on.

1 MS. HARMON: I'm sorry. Would you
2 like me to ask those questions now --

3 CHAIRPERSON MILLER: Yes.

4 MS. HARMON: -- to establish the
5 chain of custody or do you want to play the
6 video and then have me establish it.

7 CHAIRPERSON MILLER: I think hear
8 it now, so we know when it was taken and
9 everything.

10 MS. HARMON: Okay.

11 MEMBER ALBERTI: He can do it from
12 that table.

13 CHAIRPERSON MILLER: Yes, you can
14 do it from the table if you are --

15 MS. HARMON: Oh, okay.

16 MEMBER ALBERTI: Yes. Because
17 you'll be back there anyway.

18 MS. HARMON: Okay.

19 CHAIRPERSON MILLER: Either way.

20 MS. HARMON: Okay.

21 CHAIRPERSON MILLER: You are under
22 oath either way.

1 MS. HARMON: Okay.

2 CHAIRPERSON MILLER: Okay.

3 MS. HARMON: Mr. Crumbley, the
4 video that is on this DVD that my assistant
5 has marked as Protestant's Exhibit No. 2,
6 where were you when you took this video?

7 MR. CRUMBLEY: I was set up on the
8 service roadway in a parking space outside of
9 the Shadow Room Night Club at 2131 K Street,
10 N.W., Washington, D.C.

11 MS. HARMON: And how far away were
12 you from the events you videoed?

13 MR. CRUMBLEY: Approximately, 30,
14 35 feet.

15 MS. HARMON: And how long were you
16 there?

17 MR. CRUMBLEY: From 10:00 p.m.
18 that evening until 3:00 a.m. the following
19 morning.

20 MS. HARMON: And in the effort of
21 conserving time for the Board, did you edit
22 the video?

1 MR. CRUMBLEY: No, I did not.

2 MS. HARMON: Okay. Any other
3 questions? Is -- he can't -- hasn't seen it
4 yet, so he can't testify that it's a true and
5 accurate copy.

6 CHAIRPERSON MILLER: Okay. Right.

7 MS. HARMON: But so I probably
8 should go ahead and play the video.

9 CHAIRPERSON MILLER: Okay. Could
10 I just get him to clarify what evening was
11 this?

12 MR. CRUMBLEY: This was on the
13 evening of Thursday, March 6, 2014.

14 CHAIRPERSON MILLER: Okay. Thank
15 you.

16 (Video played.)

17 MS. HARMON: Okay.

18 (Video stopped.)

19 MR. MPRAS: Excuse me, ma'am,
20 after having viewed the video, I would object
21 to its entry into evidence. The time -- for
22 one, the time stamp on the video jumps from

1 2:10 to 2:42 showing a huge gap in that video.
2 If any of the Board Members happened to catch
3 that?

4 CHAIRPERSON MILLER: Okay. Do you
5 have a response?

6 MS. HARMON: Well, I think all he
7 was doing was showing that they were closing
8 the club down and he didn't want to play 40
9 minutes of video for you. We have time
10 constraints on this, so I'm happy to omit the
11 part at the very end where it goes to 2:42,
12 but I don't -- he didn't edit it. It is still
13 representative of what he saw.

14 CHAIRPERSON MILLER: Can I ask --

15 MS. HARMON: He just omitted part
16 of the video.

17 CHAIRPERSON MILLER: I think Mr.
18 Crumbley should -- did you edit the video?
19 Can you explain the break in between 2:10 and
20 2:42?

21 MR. CRUMBLEY: Yes, Madam Chair.
22 Typically my line of work what I was retained

1 to do was to observe anything that took place
2 of any significance at the Shadow Room, mainly
3 any type of disturbances, any type of
4 altercations or which I was requested to
5 obtain video evidence of it, whether it be
6 through photographs or through video film.

7 So what I did when I did observe
8 an altercation, I went ahead and I video
9 filmed it. When the altercation was over, I
10 stopped my video camera. Then what I did as
11 a matter of respect to the job that I was, you
12 know, hired to do, I was asked to remain on
13 the scene until the closing of the nightclub.
14 Therefore, I video filmed with the date and
15 time stamp the closing of the nightclub which
16 was the official closing. They were breaking
17 down the awning and carrying it into the
18 building, that's why there was the video of
19 that activity on the film.

20 CHAIRPERSON MILLER: Okay. I
21 don't see a problem in admitting it into
22 evidence then. Is that Protestant's Exhibit

1 No. 1?

2 MS. HARMON: I think No. 1 was --

3 CHAIRPERSON MILLER: Okay.

4 MS. HARMON: -- the website --

5 CHAIRPERSON MILLER: Right, right.

6 This is No. 2.

7 (Whereupon, the document was
8 marked for identification as
9 Protestant Exhibit 2 and was
10 received in evidence.)

11 MS. HARMON: -- information of
12 Instant Chaos. And this would be Protestant's
13 Exhibit No. 2. And I have quite a few copies
14 here that I could give Ms. Anderson and
15 opposing counsel, if he would like a copy.

16 MR. MPRAS: Yes, please.

17 CHAIRPERSON MILLER: This is Ms.
18 Walker.

19 MS. HARMON: Oh, I'm sorry.

20 MEMBER ALBERTI: Yes, we need a
21 copy for evidence.

22 CHAIRPERSON MILLER: We don't

1 really need -- we don't need seven though.

2 MS. HARMON: Pardon me?

3 CHAIRPERSON MILLER: We don't need
4 seven.

5 MS. HARMON: Oh, okay. How many
6 would you like?

7 CHAIRPERSON MILLER: I don't
8 believe.

9 MEMBER SHORT: I would like to
10 have one.

11 CHAIRPERSON MILLER: Okay. Well,
12 whatever you have for us. If you have them
13 made already, we will take them.

14 MS. HARMON: Yes, I have six.

15 CHAIRPERSON MILLER: Okay.

16 MR. MPRAS: Ma'am, I understand
17 your decision, but for the record --

18 CHAIRPERSON MILLER: Um-hum, okay.

19 MR. MPRAS: -- I did ask if this
20 was edited in any way and the response was no,
21 but yet it was.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER ALBERTI: I don't think it
2 was edited.

3 CHAIRPERSON MILLER: Yes, it
4 depends on what you call editing. I mean, he
5 said it stopped and then he started again
6 later, correct?

7 MR. CRUMBLEY: That's correct.

8 CHAIRPERSON MILLER: Right.

9 MEMBER ALBERTI: So you didn't
10 delete anything --

11 CHAIRPERSON MILLER: That you
12 recorded?

13 MEMBER ALBERTI: From what you
14 recorded, from the section -- from what you
15 recorded that evening, did you delete
16 anything?

17 MR. CRUMBLEY: No, I did not.

18 MEMBER ALBERTI: Okay. Thank you.

19 CHAIRPERSON MILLER: Okay.

20 MEMBER SHORT: One last question
21 for the investigator.

22 MR. CRUMBLEY: Yes, sir.

1 MEMBER SHORT: Was this the true
2 video of what you actually saw in front of the
3 Shadow Night Club, Shadow Room?

4 MR. CRUMBLEY: Yes.

5 MEMBER SHORT: Okay.

6 MS. HARMON: And I'll ask a few
7 more questions.

8 Can you just describe briefly the
9 events that you videoed for the Board?

10 MR. CRUMBLEY: Well, approximately
11 at -- throughout the evening, I observed
12 several persons entering the nightclub, maybe
13 totalling approximately 150 to 200 persons.
14 And there were occasional traffic jams along
15 the service road of K Street while the two
16 valet persons parked vehicles.

17 At approximately 2:10 -- at
18 approximately 2:00 a.m., I observed a large
19 number of persons exiting the nightclub, which
20 I believed to be the closing time. At
21 approximately 2:10 a.m., that's when I
22 observed the large mob of individuals that

1 were standing outside of the club begin to get
2 into a pushing and shoving match.

3 What ensued from thereon were a
4 battle of fisticuffs between three to four
5 different individuals. I observed an
6 individual get struck in the back of the head.
7 I observed the altercation spill out into the
8 service roadway along the westbound lanes of
9 K Street, N.W., Washington, directly outside
10 of the main entrance to the Shadow Room Night
11 Club.

12 At that point in time, once the
13 melee began, I observed security personnel
14 that I believe are affiliated, dressed in all
15 black, with the Shadow Room Night Club attempt
16 to restrain the individuals that were involved
17 in the altercation. However, it was not done
18 immediately. I observed individuals
19 continuously and remaining in some type of
20 altercation, a battle of fisticuffs back and
21 forth, pushing, shoving, etcetera.

22 Words were exchanged, threats were

1 exchanged and at that point, for about a, you
2 know, three or four minute period, individuals
3 were separated. Then as the crowd began to
4 disperse, approximately, 15, 20 -- 15 or 17
5 minutes later I observed Metropolitan Police
6 Department arrive on the scene.

7 However, once they arrived, the
8 altercation had already disseminated. There
9 was no more to it at that point. And at
10 approximately 30 minutes after the altercation
11 was -- actually when the official last person
12 had exited the building, which is when the
13 awning was broken down, I did not observe any
14 more patrons exit the establishment after, I
15 believe it was, 2:42 a.m. that morning.

16 MS. HARMON: What's the effect of
17 the closing of the nightclub? Do large
18 amounts of people exit at a particular time?

19 MR. CRUMBLEY: From what I
20 observed, I observed the majority of the crowd
21 exit after 2:00 a.m. due to the fact that many
22 of the individuals did park in valet and there

1 were too valet persons there. A crowd began
2 to wait around for their vehicles. Some
3 persons waited, like I said, up to 20, 25
4 minutes waiting for their vehicle.

5 You are talking a crowd of,
6 approximately, 40 to 50 persons were gathered
7 outside of the nightclub as you observed in
8 the video.

9 MS. HARMON: And was, during this
10 period, parking or traffic backed up on the K
11 Street service road that leads onto Washington
12 Circle?

13 MR. CRUMBLEY: Yes, it was. That
14 is correct. There were --

15 MEMBER SILVERSTEIN: What was the
16 question again, please?

17 MS. HARMON: Was the service road
18 during the period from 2:00 to 3:00 when the
19 patrons were exiting Shadow Room --

20 MR. MPRAS: Ma'am, I would like to
21 object. He is here testifying to the video.
22 Are you not?

1 MS. HARMON: No. He is test -- he
2 was retained to observe from 10:00 to 3:00
3 a.m., so he is testifying not only to the
4 video, but to what he saw.

5 MR. ADAMS: Withdrawn.

6 CHAIRPERSON MILLER: Okay.

7 MS. HARMON: So if I can recall my
8 question, during this period when the club was
9 closing, was there a backup on the service
10 road that runs parallel to K Street going up
11 to the Washington Circle?

12 MR. CRUMBLEY: Yes, there was.

13 MS. HARMON: Okay. In your
14 experience, do you think that a reimbursable
15 police detail or any type of police detail
16 would deter the type of behavior that --

17 MR. MPRAS: I object to this
18 question.

19 MS. HARMON: -- depicted --

20 MR. MPRAS: He hasn't been
21 qualified.

22 CHAIRPERSON MILLER: Wait. She

1 hasn't finished her question. So let her
2 finish her question and then we will hear the
3 objection.

4 MR. MPRAS: Okay.

5 CHAIRPERSON MILLER: So you might
6 need to start again, Ms. Harmon.

7 MS. HARMON: I guess I'll ask, if
8 the police had been there just from your
9 general impressions, do you think this
10 situation would have gotten as serious as it
11 is portrayed on the video?

12 MR. CRUMBLEY: I don't believe so.
13 I believe if the police had been there, that
14 the matter would have been handled in a much
15 more timely manner and that's public safety
16 when you are taking into consideration much
17 more so than the bouncers that were just
18 pushing patrons out back and forth.

19 MR. MPRAS: Objection.

20 MS. HARMON: I have no more
21 questions.

22 CHAIRPERSON MILLER: Okay. Mr.

1 Mpras?

2 MR. MPRAS: Thank you.

3 CROSS-EXAMINATION

4 MR. MPRAS: Mr. Crumbley, prior to
5 this investigation, have you ever visited the
6 Shadow Room before?

7 MR. CRUMBLEY: On one occasion,
8 yes, I have.

9 MR. MPRAS: One occasion?

10 MR. CRUMBLEY: Yes.

11 MR. MPRAS: Okay. And were you
12 retained only for one night?

13 MR. CRUMBLEY: Yes.

14 MR. MPRAS: Okay. And that was
15 the 6th of March 2014 going into the 7th?

16 MR. CRUMBLEY: That's correct.

17 MR. MPRAS: Okay. Now, please,
18 tell me exactly what was your assignment that
19 night.

20 MR. CRUMBLEY: My assignment was
21 to station myself outside of the main entrance
22 to the Shadow Club to observe and make note of

1 any type of disturbance that I would have
2 observed during the course of my surveillance,
3 to obtain visual evidence of any type of
4 incidents whether it be an altercation with
5 members of the Shadow Room, with patrons of
6 the Shadow Room or, you know, anything else
7 affiliated with the Shadow Room.

8 MR. MPRAS: Okay. So you sat
9 outside the Shadow Room and did you -- were
10 you to videotape all this or just observe?

11 MR. CRUMBLEY: I observed from
12 10:00 p.m. to 3:00 a.m.

13 MR. MPRAS: No, sir, what were
14 your instructions?

15 MR. CRUMBLEY: I was instructed to
16 video film any incidents which I observed
17 while on surveillance at the Shadow Room the
18 evening of March 6, 2014.

19 MR. MPRAS: Thank you. So, sir,
20 did you videotape MPD arriving on scene?

21 MR. CRUMBLEY: No, I did not.

22 MR. MPRAS: Why not?

1 MR. CRUMBLEY: That was not part
2 of the incident that I observed.

3 MR. MPRAS: You said -- did you
4 videotape -- you mentioned a mob.

5 MR. CRUMBLEY: Yes.

6 MR. MPRAS: What is your
7 definition of a mob?

8 MR. CRUMBLEY: Any time you have
9 30, 40 unruly persons in a confined area.

10 MR. MPRAS: And did you videotape
11 that?

12 MR. CRUMBLEY: Yes, I did.

13 MR. MPRAS: Let's go back to your
14 video, sir. Now, you said the street was
15 backed up due to the valet, did you not?

16 MR. CRUMBLEY: The street was
17 backed up due to the valet towards the end of
18 the closing night. I did observe that
19 traffic.

20 MR. MPRAS: Did you videotape
21 that?

22 MR. CRUMBLEY: No, I did not.

1 MR. MPRAS: Why not?

2 MR. CRUMBLEY: Based on my
3 lighting and where I was situated, I was
4 unable to actually video film that particular
5 activity as it took place.

6 MR. MPRAS: Okay. Could you tell
7 us again exactly where you conducted your
8 surveillance from?

9 MR. CRUMBLEY: The service roadway
10 along -- in the westbound direction, facing
11 westbound on the service roadway of K Street,
12 N.W., Washington, D.C. in the 2100 Block of K
13 Street.

14 MR. MPRAS: Okay. And
15 approximately how far was that from the Shadow
16 Room entrance in feet?

17 MR. CRUMBLEY: Approximately 35,
18 40 feet.

19 MR. MPRAS: Okay. And you were in
20 your vehicle, correct?

21 MR. CRUMBLEY: That is correct.

22 MR. MPRAS: Okay. Does your

1 vehicle have tinted windows?

2 MR. CRUMBLEY: Yes, it does.

3 MR. MPRAS: Okay. Now, with the
4 tinted windows and the low light, were you
5 able to see as clear as you would have if they
6 were not tinted?

7 MR. CRUMBLEY: By law my front
8 windowshield is not tinted. That is the
9 window which I filmed out of. I did not film
10 out of my side windows during the course of
11 the surveillance.

12 MR. MPRAS: And do not the side
13 windows limit the amount of light entering the
14 vehicle?

15 MR. CRUMBLEY: They do.

16 MR. MPRAS: Now, you said you were
17 retained by Ms. Harmon on behalf of the
18 Condominium Association?

19 MR. CRUMBLEY: Yes, I believe so.

20 MR. MPRAS: So you are being --
21 you were being paid to videotape and surveil
22 that evening?

1 MR. CRUMBLEY: Yes, the company I
2 work for was being paid.

3 MR. MPRAS: Okay. And are you
4 being paid for being here today and
5 testifying?

6 MR. CRUMBLEY: Yes.

7 MR. MPRAS: Okay. And had you not
8 observed that the -- the behavior pattern that
9 the protestants paid you to look for, would
10 you be here testifying today?

11 MR. CRUMBLEY: Can you repeat
12 that?

13 MR. MPRAS: Yes. Had you not
14 observed the behavior patterns that the
15 protestants paid you to look for, would you be
16 here testifying today?

17 MR. CRUMBLEY: It depends on if I
18 was -- if my testimony would have been needed.

19 MR. MPRAS: Needed for whom?

20 MR. CRUMBLEY: If they needed me
21 to testify to what I observed, then I would be
22 here.

1 MR. MPRAS: In your opinion as an
2 investigator, would your test -- sorry. And
3 how long have you been an investigator?

4 MR. CRUMBLEY: 21 years.

5 MR. MPRAS: Okay. And 21 years as
6 a private investigator?

7 MR. CRUMBLEY: As a licensed
8 private investigator.

9 MR. MPRAS: And where did you
10 receive your training?

11 MR. CRUMBLEY: I have a Bachelor's
12 of Science Degree from the University of
13 Maryland in Criminal Law, graduating in May of
14 1995.

15 MR. MPRAS: Okay.

16 MR. CRUMBLEY: I have a
17 Certificate of Completion through Forensic
18 Science Associates in Alexandria, Virginia,
19 completion date of June 1996. And I have 21
20 years of experience as a licensed investigator
21 in the State of Maryland, in the District of
22 Columbia, as well as the Commonwealth of

1 Virginia.

2 MR. MPRAS: And how many years
3 experience do you have specifically in the
4 District of Columbia?

5 MR. CRUMBLEY: 20 years. 20 to 21
6 years.

7 MR. MPRAS: And you have been
8 licensed that entire time?

9 MR. CRUMBLEY: That is correct.

10 MR. MPRAS: Okay. Now, I would
11 like the video replayed, please, and I would
12 like you to go through it as it is being
13 played and give us your observations of what
14 you see.

15 MR. CRUMBLEY: Certainly.

16 MR. MPRAS: Thank you.

17 MEMBER ALBERTI: Just a
18 suggestion. Mr. Mpras, are you going to want
19 to stop this at different points?

20 MR. MPRAS: I'm sorry?

21 MEMBER ALBERTI: Do you anticipate
22 asking them to stop it at different points?

1 MR. MPRAS: Yes.

2 MEMBER ALBERTI: Okay. Well, I
3 want them to be prepared for that.

4 MR. MPRAS: Okay.

5 MEMBER ALBERTI: That's the only
6 reason I mentioned that.

7 MR. MPRAS: Thank you. If you can
8 get ready to pause.

9 MEMBER ALBERTI: I want this to go
10 smoothly.

11 MEMBER SHORT: It's too late for
12 that.

13 MEMBER SILVERSTEIN: Not nice.

14 (Video replayed.)

15 MR. MPRAS: And what are we
16 looking at right now?

17 MR. CRUMBLEY: Looking at a --

18 MR. MPRAS: Stop it.

19 (Video paused.)

20 MR. CRUMBLEY: -- large crowd of
21 individuals that had just exited the Shadow
22 Room at 2:08 a.m. This is right when the

1 altercation began. There was a pushing and
2 shoving match and you see right here the
3 individual in the center of the screen
4 underneath the awning of the Shadow Room --

5 MEMBER SHORT: Security.

6 MR. CRUMBLEY: -- by the T-shirt
7 is being restrained by one of the security
8 guards at the Shadow Room Night Club.

9 MR. MPRAS: Okay. And you told me
10 that there were a mob. You said 20 to 30
11 people.

12 MR. CRUMBLEY: That is correct.

13 MR. MPRAS: Where do you see that?

14 MR. CRUMBLEY: If you let the
15 video play, you will see approximately 20 to
16 30 people in total.

17 MR. MPRAS: Um-hum.

18 MR. CRUMBLEY: When you look at
19 the video, you have 20 to 30 people next to
20 the awning.

21 MR. MPRAS: Thank you. Okay.

22 MR. CRUMBLEY: I see approximately

1 20 to 30 people underneath that awning that
2 filled up that entire 7 x 7 area and spilled
3 out even into the roadway, which my camera
4 couldn't even capture because it was so many
5 persons.

6 MR. MPRAS: Could a large number
7 of those people be employees of the venue?

8 MR. CRUMBLEY: I don't believe so.
9 I was there from 10:00 p.m. I observed the
10 majority of just about everyone of those
11 persons entered the Shadow Room after 10:00
12 p.m. as patrons, not as employees.

13 MR. MPRAS: So you could
14 differentiate between a patron and an employee
15 of the Shadow Room right now?

16 MR. CRUMBLEY: For the most part
17 that evening, I could because they had -- the
18 patrons had to show ID. I don't believe the
19 employees had to show ID to the security
20 staff.

21 MR. MPRAS: I mean right now from
22 that picture.

1 MR. CRUMBLEY: Yes, yes, from this
2 picture I could differentiate between some of
3 the Shadow Room employees and --

4 MR. MPRAS: From your video, I
5 can't see anything. All I see are shadow
6 figures.

7 MR. CRUMBLEY: No, the gentleman
8 just before this frame that had his arm around
9 the gentleman in the white, he was an employee
10 of the Shadow Room, because you will see in
11 the next frame as he moves out to the main
12 roadway of K Street, he is entirely --

13 MR. MPRAS: So there were
14 employees from the Shadow Room there?

15 MR. CRUMBLEY: There was an
16 employee that did -- yes, I said that. That
17 didn't go out into the main roadway, that
18 attempted to restrain the persons that were
19 fighting outside of the Shadow Room Night Club
20 at, approximately, 2:10 a.m.

21 MR. MPRAS: So what is the -- you
22 said you can identify the security people

1 there. What were they -- what was their
2 attire?

3 MR. CRUMBLEY: I identified one of
4 them. He was wearing all black, black shirt,
5 black slacks, a tall gentleman maybe about
6 6'5", in excess of 260 pounds, black male.

7 MR. MPRAS: Um-hum. What is the
8 general attire of the security, if there was
9 one?

10 MR. CRUMBLEY: I did notice that
11 there were, I believe, two gentleman that were
12 -- that I had observed in all black.

13 MR. MPRAS: Um-hum. Out of how
14 many?

15 MR. CRUMBLEY: I observed the two,
16 that was it.

17 MR. MPRAS: So you only observed
18 two out of however many were working that
19 night?

20 MR. CRUMBLEY: In the middle of
21 the altercation, yes.

22 MR. MPRAS: Can you play the

1 events?

2 MR. CRUMBLEY: Yes.

3 (Video resumed.)

4 MR. MPRAS: Can you stop it
5 please?

6 (Video paused.)

7 MR. MPRAS: Again, I don't see 20
8 to 30 people. Where do you see that?

9 MR. CRUMBLEY: I saw 20. I see 20
10 to 30 people.

11 MR. MPRAS: Do you see them now in
12 the video?

13 MR. CRUMBLEY: It's difficult to
14 see right now, because the video is paused and
15 you have the shadows that are in -- that come
16 into play there.

17 MR. MPRAS: Continue, please.

18 (Video played.)

19 MR. MPRAS: Can you stop that?

20 (Video paused.)

21 MR. MPRAS: Right before we
22 stopped it, there was a gentleman that ran

1 into the street. Is that correct?

2 MR. CRUMBLEY: Yes.

3 MR. MPRAS: Is that what you were
4 referring to when you said it spilled into the
5 street?

6 MR. CRUMBLEY: Yes, that gentleman
7 was struck in the back of the head and as he--

8 MR. MPRAS: Can you take that back
9 a little bit? We didn't see that.

10 (Video rewind/replayed.)

11 (Video paused.)

12 MR. MPRAS: It doesn't look like
13 anybody made contact, fisticuffs as you put
14 it. Can you tell me where you saw that?

15 MR. CRUMBLEY: I saw a gentleman
16 throw a punch.

17 MR. MPRAS: Did that gentleman
18 connect?

19 MR. CRUMBLEY: I'm sorry?

20 MR. MPRAS: Did you see that
21 gentleman connect? Because I didn't see it.

22 MR. CRUMBLEY: I believe he

1 connected.

2 MR. MPRAS: Are you certain?

3 MR. CRUMBLEY: I'm pretty certain,
4 sir. I'm about 97 to 100 percent sure he
5 connected on that punch.

6 MR. MPRAS: Keep going, please.
7 Thank you.

8 (Video played.)

9 MR. MPRAS: Now this gentleman you
10 are seeing right there is from the Shadow
11 Room, in the center?

12 MR. CRUMBLEY: Which one, sir?
13 Are you referring to the one that pushed the
14 other gentleman? I believe he worked for the
15 Shadow Room.

16 MR. MPRAS: Okay. That's it.
17 Okay. Thank you.

18 (Video stopped.)

19 MR. MPRAS: Now, another question
20 about the -- you videoed, but you had no
21 audio. Is that correct?

22 MR. CRUMBLEY: That is correct.

1 MR. MPRAS: Noise was a concern of
2 your client, but you elected not to have any
3 type of audio?

4 MR. CRUMBLEY: It's not that I
5 elected, due to the Rules of Evidence, I am
6 prohibited from recording sound or voices or
7 recording someone's voice without their
8 consent.

9 MR. MPRAS: On public space?

10 MR. CRUMBLEY: Yes.

11 MR. MPRAS: That's actually
12 incorrect. I have no further questions.
13 Thank you.

14 MR. CRUMBLEY: You're welcome.

15 CHAIRPERSON MILLER: Okay. Board
16 questions? Mr. Silverstein?

17 MEMBER SILVERSTEIN: Thank you.
18 Mr. Crumbley?

19 MR. CRUMBLEY: Yes.

20 MEMBER SILVERSTEIN: How many
21 previous times had you been asked to go to
22 this particular venue?

1 MR. CRUMBLEY: This was my first
2 time, sir. I was asked on March 4th to --
3 that was when I was initially contacted. I
4 was initially contacted and retained on March
5 4th and I was instructed to go out there the
6 first Thursday opportunity that we had, which
7 was March 6th, which was last Thursday.

8 MEMBER SILVERSTEIN: Nothing
9 happened -- you taped from 11:00 until 3:00
10 you say or something to that effect?

11 MR. CRUMBLEY: I conducted --

12 MEMBER SILVERSTEIN: Or 2:50.

13 MR. CRUMBLEY: -- surveillance
14 from 10:00 p.m. to 3:00 a.m.

15 MEMBER SILVERSTEIN: Did you see
16 anything else that for any reason might have
17 been of interest? Was it quiet the rest of
18 the time?

19 MR. CRUMBLEY: The only other
20 thing that I observed, I did observe a slight
21 traffic backup along the service roadway due
22 to the valet trying to get vehicles out. When

1 you have two valet persons, you are dealing
2 with a one-lane road, service roadway.

3 There was a bit of a traffic jam
4 trying to get vehicles out of the garage in a
5 timely fashion. As well as I observed some of
6 the traffic begin to backup as individuals in
7 their vehicles, on-lookers were watching the
8 fight take place in the roadway.

9 MEMBER SILVERSTEIN: But this was
10 the only time that you had been there? It's
11 not as though you had been there six or eight
12 times and you saw -- you just happened to
13 catch this event?

14 MR. CRUMBLEY: First time.

15 MEMBER SILVERSTEIN: This was your
16 first time, bang, you got it.

17 MR. CRUMBLEY: First and only
18 time, sir.

19 MEMBER SILVERSTEIN: How long a
20 wait was there for -- when did you start
21 seeing people going out and getting their cars
22 from the valet?

1 MR. CRUMBLEY: Just before 2:00
2 a.m., maybe around 1:58 a.m. And the last
3 patrons did not leave the establishment until,
4 approximately, 2:40. So you are looking at
5 about a 40, 42 minute period of constant
6 persons exiting the establishment, retrieving
7 their vehicles from valet.

8 MEMBER SILVERSTEIN: And how long,
9 once again, did the longest wait appear to be
10 to you?

11 MR. CRUMBLEY: Approximately 20
12 minutes.

13 MEMBER SILVERSTEIN: How do you
14 know that?

15 MR. CRUMBLEY: I observed an
16 individual who had exited the club fairly
17 early. His vehicle had been brought around.
18 And instead of departing, he kind of hung
19 around. I saw him talking with other persons.
20 I saw him actually retrieve his vehicle, pull
21 it up, a person started blowing the horn at
22 him, because he was kind of taking up space.

1 He was driving a dark-colored Corvette, recent
2 model. I don't believe I was able to obtain
3 the tag number.

4 MEMBER SILVERSTEIN: How often was
5 the service road blocked and how serious was
6 that?

7 MR. CRUMBLEY: Not very serious.
8 It was a -- it was blocked maybe on two to
9 three instances throughout the entire time
10 period that I was there. Not more than maybe,
11 at the longest, one to two minutes.

12 MEMBER SILVERSTEIN: Had there
13 been an emergency vehicle on its way to GW
14 Hospital, which is a block away, would that
15 have created a problem or was this simply
16 something where they could have moved the car
17 immediately?

18 MR. CRUMBLEY: Um --

19 MEMBER SILVERSTEIN: And explain
20 to me how you would know.

21 MR. CRUMBLEY: -- I feel that
22 properly done, they probably could have moved

1 the vehicle in a pretty timely fashion. If
2 you pay close attention to the emergency
3 vehicle, if you are expecting it. I think the
4 main issue is that the garage is located on
5 the back side of the building in the alleyway,
6 so that person is clearly out of sight when he
7 enters the -- when he is in the back of the
8 building or trying to retrieve a vehicle.

9 And if there were -- an emergency
10 vehicle was coming, he would not observe it,
11 he is not -- it's not as if the garage is
12 right there on the front of the building where
13 you can observe the main roadway the entire
14 time from the garage.

15 MEMBER SILVERSTEIN: And when you
16 were in your car, were the windows closed?

17 MR. CRUMBLEY: I had the windows
18 cracked. I had them slightly cracked.

19 MEMBER SILVERSTEIN: What was the
20 temperature by the way?

21 MR. CRUMBLEY: The temperature
22 that evening was 30 degrees with a slight wind

1 chill bringing it down into the upper 20s.

2 MEMBER SILVERSTEIN: So you didn't
3 have people hanging around outside enjoying
4 the springtime ambience?

5 MR. CRUMBLEY: No, you did not.

6 MEMBER SILVERSTEIN: How loud was
7 it and how far would that noise have gone?

8 MR. CRUMBLEY: I did not observe
9 very much sound coming directly from the
10 Shadow Room. I did, however, observe sound
11 and hear sounds from some of the persons that
12 were driving by, some of which did arrive and
13 enter the Shadow Room from their vehicles.
14 Some of, which as they approached, the persons
15 who were walking up the street or what have
16 you who were walking up the street sidewalk to
17 the Shadow Room would occasionally yell out to
18 some of the other persons who maybe were
19 already in line to enter the Shadow Room or
20 some of the persons who may have been in their
21 vehicles waiting to valet to enter Shadow
22 Room. So maybe some of their friends or --

1 MEMBER SILVERSTEIN: I think it
2 would seem to be impossible to be blaming them
3 if somebody drives by with a loud boom box in
4 the car. But as far as people leaving, was
5 there a serious amount of noise there that
6 could have created a disturbance for people
7 who have to sleep and get up in the morning
8 and go to work?

9 MR. CRUMBLEY: Well, yes. During
10 the fight that took place at 2:10 and 2:08 to
11 2:10 a.m., during that period of time, there
12 was some yelling. There was, you know, some
13 verbal threats, verbal altercations, if you
14 may, that were exchanged between individuals
15 that were loud in nature that could disturb
16 neighbors or residents in the immediate area.

17 MEMBER SILVERSTEIN: Okay. No
18 further questions.

19 CHAIRPERSON MILLER: Okay. Mr.
20 Jones?

21 MEMBER JONES: Thank you, Madam
22 Chair. Just really quickly, you were there

1 from just -- I know you said this, so I
2 apologize, from 11:00 p.m. to 3:00 a.m.?

3 MR. CRUMBLEY: 10:00 p.m.

4 MEMBER JONES: 10:00 p.m., okay.
5 10:00 p.m. to 3:00 a.m.

6 MR. CRUMBLEY: That's correct.

7 MEMBER JONES: The nature of the
8 patron that you saw going into the
9 establishment, were you able to clearly
10 observe patrons entering into the Shadow Room?

11 MR. CRUMBLEY: Yes, I was.

12 MEMBER JONES: Okay. In general,
13 how were they -- what was their attire?

14 MR. CRUMBLEY: It was a mixed
15 attire. You had everything from jeans and T-
16 shirts with sneakers to the occasional
17 individual in slacks and a sweater or a
18 button-up shirt.

19 MEMBER JONES: Okay.

20 MR. CRUMBLEY: Average age range
21 probably -- appeared to be 26 to 28 years of
22 age, mixed race clientele.

1 MEMBER JONES: Okay.

2 MR. CRUMBLEY: I would say maybe
3 35 to 40 percent African-American and, you
4 know, probably about 15 percent caucasian and
5 then the rest between Middle Eastern, Hispanic
6 and so forth.

7 MEMBER JONES: All right. The
8 cliental has been described to us as being
9 high-end and sophisticated. Would you share
10 that perspective based on what you observed?

11 MR. CRUMBLEY: No, not at all.

12 MEMBER JONES: Okay. Thank you.
13 Thank you, Madam Chair.

14 CHAIRPERSON MILLER: Okay. Mr.
15 Alberti?

16 MEMBER ALBERTI: Yes. I would
17 like to go back to the video and invite other
18 Board Members to stop it if they want during
19 points, but can we go back and I want to stop
20 it sort of right close to the beginning, so be
21 prepared. If anyone else wants to stop it,
22 just yell out.

1 (Video played.)

2 MEMBER ALBERTI: I think it will
3 be more efficient this way. Okay. Let's stop
4 it right there. Let's stop it right there.
5 Stop it right there.

6 (Video paused.)

7 MEMBER ALBERTI: Okay. So now I
8 see three individuals in white shirts that I
9 can clearly identify and somebody with some
10 sort of clown on his head. Do you have any
11 sense of how long those individuals -- you
12 know, this is like 2:08:32. Eight minutes
13 after the club was -- operations were supposed
14 to close.

15 So do you have any idea how long--
16 do you have any sense of how long those
17 individuals were outside?

18 MR. CRUMBLEY: They had just
19 exited the club within two minutes of this
20 incident happening.

21 MEMBER ALBERTI: But were they out
22 there for two minutes, do you think?

1 MR. CRUMBLEY: Between 90 seconds
2 and two minutes, if that.

3 MEMBER ALBERTI: Okay. So let's
4 continue.

5 (Video played.)

6 MEMBER ALBERTI: Okay. Stop it
7 right there.

8 (Video paused.)

9 MEMBER ALBERTI: So this guy bear-
10 hugging somebody, any sense of who he works
11 for?

12 MR. CRUMBLEY: I believe he is an
13 employee of the Shadow Room security staff.

14 MEMBER ALBERTI: Okay. And why do
15 you say that?

16 MR. CRUMBLEY: I had observed him
17 earlier in the evening. I believe he was
18 standing out front when they were checking
19 IDs. And he was dressed, like I said, in all
20 black and I had observed him walking freely in
21 and out of the Shadow Room, which led me to
22 believe he was an employee, not a patron.

1 MEMBER ALBERTI: At this
2 particular point in time, do you remember if
3 any of the other security personnel were
4 involved here in restraining individuals?

5 MR. CRUMBLEY: I cannot -- not
6 that I can recall.

7 MEMBER ALBERTI: Okay. Was it
8 your sense that there were -- well, it looks
9 like -- I will assume for a second that the
10 guy being bear-hugged was an aggressor. Do
11 you believe from -- do you have a sense that
12 there was somebody else who was acting
13 aggressively at this --

14 MR. CRUMBLEY: Yes.

15 MEMBER ALBERTI: More than one
16 individual? One individual, more than one
17 individual?

18 MR. CRUMBLEY: I believe there
19 were at least three individuals.

20 MEMBER ALBERTI: Acting
21 aggressively?

22 MR. CRUMBLEY: Yes.

1 MEMBER ALBERTI: Okay. Towards
2 each other, towards one individual?

3 MR. CRUMBLEY: It was -- I
4 observed three individuals acting in an
5 aggressive manner based on their body
6 language.

7 MEMBER ALBERTI: Okay.

8 MR. CRUMBLEY: As you can observe
9 this one individual, he was being restrained.
10 There was another individual who you will see
11 who has on a white T-shirt, he actually takes
12 his jacket off and throws it on the ground.
13 He was in an aggressive manner. And then
14 there was another individual you will see in
15 the next frame once it spills out to the
16 street, that raised his fisticuffs in an
17 upright manner and began to exchange punches.

18 MEMBER ALBERTI: So was there --
19 shortly after this, was there a second
20 individual, at least one other individual who
21 attacked this person?

22 MR. CRUMBLEY: I don't know if he

1 attacked that individual. I know he attacked
2 someone in the crowd of persons.

3 MEMBER ALBERTI: Who attacked
4 someone in the crowd?

5 MR. CRUMBLEY: He became -- well,
6 I should say he became embraced in some type
7 of altercation with someone else in the crowd.

8 MEMBER ALBERTI: He did, this guy
9 here?

10 MR. CRUMBLEY: Yes.

11 MEMBER ALBERTI: The guy that is
12 being bear-hugged?

13 MR. CRUMBLEY: Yes.

14 MEMBER ALBERTI: Okay. And so at
15 this point in time, you didn't see anyone else
16 being restrained by personnel?

17 MR. CRUMBLEY: I didn't see anyone
18 else, no.

19 MEMBER ALBERTI: Okay. Let's
20 continue.

21 (Video played.)

22 MEMBER ALBERTI: Whoa, whoa, stop

1 it right there. Stop. Let's go back. Let's
2 go back just a little bit. Go back just a
3 couple of seconds. Wait, wait, no, I want to
4 go back. You guys are going forward. I want
5 to go back. Before the -- just after the bear
6 -- go back to the bear-hug. Right there, yes.

7 (Video paused.)

8 MEMBER ALBERTI: Right there,
9 what's going on?

10 MR. CRUMBLEY: It looks like some
11 type of another pushing and shoving match. I
12 couldn't tell if any punches were exchanged,
13 but there was definitely some type of pushing
14 and shoving that took place at that point in
15 time.

16 MEMBER ALBERTI: Okay. Let's
17 continue.

18 (Video played.)

19 MEMBER ALBERTI: Wait, wait, wait,
20 let's stop it right there.

21 (Video paused.)

22 MEMBER ALBERTI: So this guy in

1 the white shirt in the center, was that the
2 guy who was being bear-hugged?

3 MR. CRUMBLEY: Yes, initially, um-
4 hum. That is the gentleman who was initially
5 being bear-hugged.

6 MEMBER ALBERTI: And am I seeing
7 that he is walking back towards the crowd that
8 is --

9 MR. CRUMBLEY: Yes.

10 MEMBER ALBERTI: -- acting
11 agitated also?

12 MR. CRUMBLEY: Yes. He is walking
13 back towards the altercation.

14 MEMBER ALBERTI: Continue.

15 MR. CRUMBLEY: Where the
16 altercation started.

17 MEMBER ALBERTI: Continue.

18 (Video played.)

19 MEMBER ALBERTI: Whoa, whoa, stop
20 it.

21 (Video paused.)

22 MEMBER ALBERTI: So the shadows,

1 it looks like there is more altercations going
2 on. Is that what you recollect going on?

3 MR. CRUMBLEY: Yes, there is.
4 Yes, there is more altercation taking place
5 underneath the awning of the Shadow Room.

6 MEMBER ALBERTI: Okay. Continue.

7 (Video played.)

8 MEMBER ALBERTI: Okay.

9 (Video paused.)

10 MEMBER ALBERTI: So the guy who
11 just ran out there, any reason why he ran out
12 to the roadway?

13 MR. CRUMBLEY: Yeah, he was struck
14 in the back of his head.

15 MEMBER ALBERTI: And you observed
16 that?

17 MR. CRUMBLEY: Yes.

18 MEMBER ALBERTI: Okay. What were
19 the personnel doing, that you could identify?
20 Any personnel from Shadow Room at this point,
21 what were they doing? Could you describe to
22 me what they were doing?

1 MR. CRUMBLEY: It appeared that
2 they were attempting to try to control the
3 crowd. They were attempting to try to, you
4 know, control the crowd.

5 MEMBER ALBERTI: Can you give me
6 an estimate of how many you think were out
7 there?

8 MR. CRUMBLEY: Maybe two to three
9 persons. Three persons, I believe that I
10 identified.

11 MEMBER ALBERTI: Okay. All right.
12 Let's continue.

13 (Video played.)

14 MEMBER ALBERTI: Well, let's go
15 back. Let's go back right there. Let's go
16 back.

17 (Video paused.)

18 MEMBER ALBERTI: It looks like --
19 all right, all right. I want to go back. Go
20 back a little bit farther. A little bit
21 farther, a little bit farther. All right.
22 Come on, okay. Now, let's go. It looks like

1 this guy in the white shirt is being pushed
2 back, but then let go. Then they are allowing
3 him to walk back to the street. Is that
4 correct?

5 MR. CRUMBLEY: That is correct.

6 MEMBER ALBERTI: And then that's
7 where the punching match started again?

8 MR. CRUMBLEY: That is correct.

9 MEMBER ALBERTI: Okay. I gotcha.
10 I have seen enough. Thank you.

11 (Video stopped.)

12 CHAIRPERSON MILLER: Mr. Short?

13 MEMBER SHORT: Yes. Thank you
14 again for your testimony. I know you heard
15 the testimony earlier that the RDO, which is
16 the police reimbursable detail probably
17 wouldn't have done any good, but in your
18 professional opinion, would the RDO have
19 helped that situation at all?

20 MR. CRUMBLEY: I believe so. I
21 believe that police detail would have
22 definitely, number one, prohibited this

1 particular incident from taking place to the
2 extent it did, as well as from the incident
3 even escalating into something more serious,
4 such as a weapon being drawn or a firearm
5 being brandished.

6 MEMBER SHORT: Thank you.

7 CHAIRPERSON MILLER: Others?
8 Yeah, Mr. Rodriguez?

9 MEMBER RODRIGUEZ: How many
10 security detail did you see out there?

11 MR. CRUMBLEY: I believe three. I
12 believe two individuals who appeared to be
13 part of the security team and then another
14 individual who, based on the way he was
15 dressed, could have been a manager. I'm not
16 sure. He appeared to be along with the
17 security persons.

18 MEMBER RODRIGUEZ: Do you feel
19 they had control of the situation?

20 MR. CRUMBLEY: I don't.

21 MEMBER RODRIGUEZ: You don't?

22 MR. CRUMBLEY: No.

1 MEMBER RODRIGUEZ: So here is one
2 security guy that immediately grabs the guy
3 with the white shirt, right? He had control
4 right away of the aggressor, right?

5 MR. CRUMBLEY: Right. Of that --

6 MEMBER RODRIGUEZ: Yes, sir. And
7 then there was another guy in a white shirt
8 who was pushed back and then he went back and
9 then the fracas started with the two guys
10 trading punches. So you think that there was
11 no control in that situation?

12 MR. CRUMBLEY: I believe that as
13 far as the total incident, I don't believe
14 that they had, you know, total control. If
15 that was the case, I don't believe the
16 individual would have been assaulted in the
17 back of the head, because that happened after
18 he already restrained the one individual and
19 then he subsequently released him, you know,
20 allowing him to then go back into the midst of
21 the altercation itself.

22 As well as when I look at it

1 totally, it's just I don't believe that it
2 should have even gotten to the point where it
3 spilled out into the main roadway, let -- you
4 know, because everything was contained on the
5 sidewalk.

6 MEMBER RODRIGUEZ: Right.

7 MR. CRUMBLEY: If you have control
8 of it on the sidewalk, there should have been
9 no reason for it to then spill out into the
10 roadway where you have oncoming traffic. You
11 create a whole different set of safety issues.
12 Someone could have been struck by a vehicle.
13 You know, i.e., create a -- if there was an
14 emergency vehicle coming down the roadway, it
15 would not have been able to pass without
16 running someone over. So we have a whole
17 different set of issues in regards -- with
18 regard to safety that can be instead are --
19 that can actually take place when you don't
20 have total control over a situation.

21 MEMBER RODRIGUEZ: Okay. Thank
22 you.

1 MR. CRUMBLEY: You're welcome.

2 CHAIRPERSON MILLER: Mr. Brooks?

3 MEMBER BROOKS: Yes.

4 Investigator, in your opinion, how could that
5 have been controlled?

6 MR. CRUMBLEY: I believe that
7 initially if you take into custody -- if you
8 had the proper authorities in place, if the --
9 once an altercation like that -- well, I think
10 individuals are a little less likely to act in
11 that type of manner when you have armed police
12 officers, law enforcement representatives on
13 the scene.

14 Number two, if, in fact, you have
15 law enforcement officials there who can take
16 an individual into custody, make an arrest and
17 prosecute them to the fullest extent of the
18 law, then you tend to take individuals out of
19 the -- for example, when that first individual
20 was restrained, if the law enforcement were
21 there, they could have held him in custody the
22 entire time until the rest of the crowd left

1 or departed.

2 In turn, that individual was then
3 released and then subsequently fisticuffs two
4 minutes later at another individual.

5 MEMBER BROOKS: Thank you, Madam
6 Chair.

7 CHAIRPERSON MILLER: Okay.
8 Others? How long did the fight last?

9 MR. CRUMBLEY: Approximately two
10 and a half or three minutes.

11 CHAIRPERSON MILLER: And how was
12 it resolved?

13 MR. CRUMBLEY: The individual was
14 kind of separated. You know, once they began
15 to separate and I guess, you know, decided to
16 leave the area.

17 CHAIRPERSON MILLER: So they
18 basically dispersed?

19 MR. CRUMBLEY: That's correct.

20 CHAIRPERSON MILLER: Okay. Any
21 questions?

22 MR. MPRAS: I want to ask a

1 question.

2 CHAIRPERSON MILLER: Okay. I'm
3 finished. Oh, what? I'm sorry.

4 MEMBER SILVERSTEIN: Madam Chair,
5 I see we have two members of the Metropolitan
6 Police Department here and at time we check to
7 see if they have pressing duties and if we
8 would take them out of order or how we should
9 handle that. I would rather that we determine
10 that now, rather than make the wait, if there
11 is any issue.

12 CHAIRPERSON MILLER: Ms. Harmon,
13 my understanding is we are almost finished
14 with this witness and if the police want to
15 just wait until this witness is finished, if
16 it's a question of like a few minutes, is it?

17 MR. CRUMBLEY: Okay.

18 CHAIRPERSON MILLER: The Board is
19 finished. You are finished, so, okay. Would
20 that be all right?

21 MS. HARMON: Yes.

22 CHAIRPERSON MILLER: Unless you

1 want us to break?

2 MS. HARMON: Yes, that would be
3 fine. I have no follow-up questions.

4 CHAIRPERSON MILLER: Okay. You
5 just have a few questions?

6 MR. MPRAS: I do.

7 CHAIRPERSON MILLER: Go ahead.
8 Thank you.

9 RECROSS-EXAMINATION

10 MR. MPRAS: How many other venues
11 were you asked to surveil by Ms. Harmon?

12 MR. CRUMBLEY: Just this one.

13 MR. MPRAS: And did you ever exit
14 your vehicle throughout the surveillance?

15 MR. CRUMBLEY: No, I did not.

16 MR. MPRAS: Okay. So you did not
17 follow patrons up the street, 22nd Street?

18 MR. CRUMBLEY: No.

19 MR. MPRAS: Now, you testified
20 earlier that -- about your training, your
21 degree is in criminal justice, I believe, and
22 then your private investigator training in

1 Virginia?

2 MR. CRUMBLEY: Yes.

3 MR. MPRAS: At a private firm?

4 MR. CRUMBLEY: Yes.

5 MR. MPRAS: Okay. Have you been
6 part of any law enforcement agency?

7 MR. CRUMBLEY: No.

8 MR. MPRAS: Have you ever been
9 trained by any law enforcement agency,
10 academy, any of that?

11 MR. CRUMBLEY: No.

12 MR. MPRAS: Okay. Have you ever
13 dealt with nightclub -- have you ever worked
14 at a nightclub?

15 MR. CRUMBLEY: No.

16 MR. MPRAS: Have you ever dealt
17 with any -- maybe did any training for
18 nightclub security issues?

19 MR. CRUMBLEY: No.

20 MR. MPRAS: Okay. Now, when you
21 described the patrons, you specifically said
22 it was a mixed attire, jeans, T-shirts,

1 slacks, is that correct?

2 MR. CRUMBLEY: Yes, that's
3 correct.

4 MR. MPRAS: Okay. You failed to
5 mention the gentleman wearing the suit that
6 was on the tape.

7 MR. CRUMBLEY: Okay.

8 MR. MPRAS: Were there also people
9 in suits?

10 MR. CRUMBLEY: There were maybe
11 one or two.

12 MR. MPRAS: And you said that the
13 venue wasn't making noise per se, but the
14 patrons were outside?

15 MR. CRUMBLEY: That is correct.

16 MR. MPRAS: Okay. And do you know
17 how far the residences are from the venue?

18 MR. CRUMBLEY: Yes, I do.

19 MR. MPRAS: How far are they?

20 MR. CRUMBLEY: They are at the end
21 of the block.

22 MR. MPRAS: Distance-wise, how

1 many feet?

2 MR. CRUMBLEY: Distance-wise? I
3 don't know how many feet.

4 MR. MPRAS: Okay. Thank you. No
5 further questions.

6 CHAIRPERSON MILLER: Okay. Thank
7 you.

8 (Whereupon, witness was excused.)

9 MS. HARMON: Thank you. If I
10 could just have a minute to just tell my two
11 witnesses who are sitting out there that it's
12 going to be probably another 30 minutes before
13 I get to them, would that be okay?

14 MEMBER ALBERTI: Well, can Mr.
15 Labas do that?

16 MS. HARMON: Pardon me?

17 MEMBER ALBERTI: Can Mr. Labas do
18 that for you while we --

19 MS. HARMON: Sure.

20 MEMBER ALBERTI: -- key up the
21 other people?

22 MS. HARMON: That's a great idea,

1 yeah.

2 MEMBER ALBERTI: It is 5:00.

3 MS. HARMON: Thanks.

4 CHAIRPERSON MILLER: Right.

5 MS. HARMON: Thank you.

6 CHAIRPERSON MILLER: Okay. Thank
7 you. Every minute counts.

8 MS. HARMON: I'm going to call for
9 protestants -- oh, does somebody have the
10 amount of time I have used up?

11 CHAIRPERSON MILLER: Mr. Jones?

12 MS. HARMON: Do you know where I
13 am on my time?

14 MEMBER JONES: Protestants have --
15 excuse me. The protestants have 56 minutes
16 remaining. The license has 45 minutes
17 remaining.

18 MS. HARMON: Great. Thank you. I
19 am going to call Lieutenant Donald Craig of
20 the Metropolitan Police Department.

21 CHAIRPERSON MILLER: You can go to
22 the witness stand.

1 MS. HARMON: You go right there.

2 I'm sorry.

3 LIEUTENANT CRAIG: I go over here?

4 CHAIRPERSON MILLER: Yes. I'll
5 swear you in.

6 LIEUTENANT CRAIG: Oh, sure.

7 Whereupon,

8 LIEUTENANT DONALD CRAIG
9 was called as a witness for the protestant,
10 and having been first duly sworn, assumed the
11 witness stand and was examined and testified
12 as follows:

13 CHAIRPERSON MILLER: Okay. Thank
14 you.

15 DIRECT EXAMINATION

16 MS. HARMON: Could you state your
17 name and occupation for the record?

18 LIEUTENANT CRAIG: Yes. Donald
19 Samuel Craig. I'm a Lieutenant with the
20 Metropolitan Police Department.

21 MS. HARMON: And how long have you
22 been with the Metropolitan Police Department?

1 LIEUTENANT CRAIG: A little over
2 24 years.

3 MS. HARMON: And how long --

4 CHAIRPERSON MILLER: I'm sorry,
5 could you speak up?

6 LIEUTENANT CRAIG: Oh, I'm sorry.
7 A little over 24 years.

8 CHAIRPERSON MILLER: Okay. Thank
9 you.

10 MS. HARMON: And how long have you
11 been a Lieutenant assigned to the 2nd
12 District?

13 LIEUTENANT CRAIG: Just about two
14 years.

15 MS. HARMON: And I'm going to hand
16 you an exhibit I previously had provided the
17 licensee's counsel and some of the Board
18 Members. And I'm going to ask you to look
19 through it. And can you describe the contents
20 of this exhibit?

21 LIEUTENANT CRAIG: Section --
22 there are various event reports for the

1 Metropolitan Police Department.

2 MS. HARMON: Actually, if we can
3 look at Tab No. 1?

4 LIEUTENANT CRAIG: All right.

5 MS. HARMON: Could you identify --

6 MR. MPRAS: Ma'am, objection. Our
7 copy is not properly tabbed. Thank you.

8 CHAIRPERSON MILLER: Good. Thank
9 you.

10 MS. HARMON: If you could look
11 through Tab 1 and just tell us what these
12 pieces of paper are?

13 LIEUTENANT CRAIG: They are copies
14 of event reports that occurred at the Shadow
15 Room in 2011, 2012 and 2013.

16 MS. HARMON: Okay. And then Tab
17 No. 2 let's skip it. Tab No. 3 and -- could
18 you look at Tab No. 3 and tell us what that
19 appears to be?

20 LIEUTENANT CRAIG: It looks like a
21 record of 911 calls.

22 MS. HARMON: And going through, if

1 you could just quickly look at Tab Nos. 4, 5,
2 you know, the remaining tabs and just look at
3 the rest of them. Perhaps note the year.

4 LIEUTENANT CRAIG: These are
5 additional event reports for years 2009
6 through 2011.

7 MS. HARMON: Okay. If we could go
8 back to Tab No. 1? If you could just review
9 that report and give me -- tell the Board the
10 date and the address location and the
11 incident?

12 LIEUTENANT CRAIG: The first one
13 it's an event report for October 4, 2013 at
14 1:56 in the morning. It is an ABC violation,
15 a patron was unruly and the staff of the club
16 escorted him out. He tried to get back in and
17 they stopped him from going back in. He fell
18 and was slightly injured. He claimed he was
19 assaulted, but the witnesses said he wasn't
20 assaulted, that what the nightclub employees
21 reported was true, so we did the ABRA incident
22 as opposed to a criminal report.

1 MS. HARMON: And which club was
2 involved?

3 LIEUTENANT CRAIG: That was the
4 Shadow Room, 2131 K Street, N.W.

5 MS. HARMON: And this is October
6 2013?

7 LIEUTENANT CRAIG: Yes.

8 MS. HARMON: Okay. And then the
9 second report, can you tell us the date and
10 the type of violation and the club that is
11 involved?

12 LIEUTENANT CRAIG: That one is
13 again the Shadow Room, March 22, 2013 at 2:21
14 in the morning. It is another ABC violation.
15 It said that there was -- we were called to
16 the front of the Shadow Room for several
17 fights. The police got there, broke it up
18 before it really became physical and then
19 everybody cleared the scene.

20 MS. HARMON: And this is March 22,
21 2013.

22 LIEUTENANT CRAIG: Yes.

1 MS. HARMON: And are these reports
2 as we go through them, did you provide me with
3 these reports?

4 LIEUTENANT CRAIG: Some of them,
5 yes, I did.

6 MS. HARMON: But they all appear
7 to be Metropolitan Police Department --

8 LIEUTENANT CRAIG: Yes, they all--

9 MS. HARMON: -- reports?

10 LIEUTENANT CRAIG: -- are out of
11 the ILEADS system that we use --

12 MS. HARMON: Okay.

13 LIEUTENANT CRAIG: -- for
14 reporting.

15 MS. HARMON: And then the next one
16 is March -- could you state the report and
17 violation and the location?

18 LIEUTENANT CRAIG: Yeah. The
19 third report, once again it's the Shadow Room,
20 March 2, 2013 at 2:42 a.m. This one two
21 subjects were in a fight with each other. One
22 had a minor injury and both subjects were

1 arrested for disorderly conduct.

2 MS. HARMON: And what was the time
3 of this one on March 2nd?

4 LIEUTENANT CRAIG: That was 2:42
5 in the morning.

6 MS. HARMON: And if we go to the
7 fourth report, what is that one?

8 LIEUTENANT CRAIG: That is 2131 K
9 Street, the Shadow Room. That one is also
10 March 2nd. That one is at 2:20 a.m. That's
11 for assault with a dangerous weapon. And it
12 says that two parties got into a fight and
13 they were separated and then a short time
14 later a suspect came and struck the
15 complainant in the face with a brandy glass
16 causing injuries to the face and the mouth.

17 MS. HARMON: Now, if we go to the
18 next report, can you give me the date and the
19 incident and location of that one?

20 LIEUTENANT CRAIG: That one is
21 Shadow Room, 2131 K Street. It's June 1,
22 2012. That's at 3:00 in the morning and that

1 report is a simple assault. That was a
2 domestic -- the complainant was standing there
3 and the suspect who was her ex-boyfriend came
4 up and punched her in the eye from behind.
5 And he then left the scene and she reported
6 the incident later on at the 4th District.

7 MS. HARMON: Okay. And then the
8 final -- or I guess we have two more reports
9 under Tab 1. If you could go through them?

10 LIEUTENANT CRAIG: Sure, sure.
11 That next one listed is May 11, 2012. It's
12 2131 K Street, Shadow Room. It's an ABC
13 incident or violation and this one says that
14 the club bouncer denied them entry into the
15 establishment and pushed them away from the
16 front door. There was no one to corroborate
17 the incident, so we took an ABRA incident as
18 opposed to a criminal report.

19 MS. HARMON: And the next report,
20 if you could go through that one.

21 LIEUTENANT CRAIG: Yes. That one
22 happened December 9, 2011 at 2:10 in the

1 morning. That one again, 2131 K Street,
2 Shadow Room, that was for assault with a
3 dangerous weapon. This one, there was a party
4 sitting at the VIP table and a group threw
5 some ice at a different group. The party at
6 the VIP table did not appear to be involved,
7 but one of the parties that got the ice thrown
8 at them thought it was the VIP table that had
9 thrown it, so then a big fight ensued inside.

10 And as a result, there was 30
11 patrons inside the club that were involved in
12 the fight. One patron was cut on the right
13 leg and the left hand during the fight.

14 MS. HARMON: And then under Tab 2,
15 I would note that this is not an MPD report.
16 It's a -- you know, I'm not going to worry
17 about that, it's from a prior protest. It
18 sets out some of the violations.

19 But could you go through -- you
20 have already testified that Tab 3 is a service
21 call report from the MPD. And are you able to
22 testify on the remaining tabs that these are

1 all official MPD incident or event reports?

2 LIEUTENANT CRAIG: The rest of the
3 event reports in here are either handwritten
4 reports or from our RMS system, both are
5 methods that we have used in the past to
6 document events.

7 MS. HARMON: And then just, you
8 know, these other reports are older. Could
9 you go to Tab 5 for example? Could you look
10 at that one?

11 LIEUTENANT CRAIG: Sure.

12 MS. HARMON: And what was the date
13 and the event of that, of this report, and
14 location?

15 LIEUTENANT CRAIG: This one
16 February 15, 2009 at 2:45 a.m., the Shadow
17 Room, 2131 K Street. And that was assault on
18 a police officer. Two subjects were in a
19 fight or argument outside the club. It
20 escalated. Six or seven people surrounded the
21 complainant and assaulted him. In this case,
22 the complainants were -- I'm sorry, let me

1 read through this again. It's a little iffy.

2 MS. HARMON: That's okay.

3 Actually, the type of event.

4 LIEUTENANT CRAIG: Yes, two
5 officers were assaulted during the ensuing
6 fight. It's a little hard to read the copy.

7 MS. HARMON: Okay. You testified
8 these are all MPD reports?

9 LIEUTENANT CRAIG: They are.

10 MS. HARMON: I think in Exhibit 2.
11 Okay. So I'm going to offer this into
12 evidence now. It's a true and correct copy of
13 MPD reports involving Shadow Room.

14 CHAIRPERSON MILLER: Okay.
15 Objection? Objections?

16 MR. MPRAS: Well, if Lieutenant
17 Craig will certify that everything in here is
18 a true and correct copy of an MPD report, no
19 objection.

20 LIEUTENANT CRAIG: To the best of
21 my knowledge, they are true and correct copies
22 of MPD reports.

1 CHAIRPERSON MILLER: Okay. This
2 is Protestant's Exhibit No. 3?

3 MS. HARMON: No. 3.

4 CHAIRPERSON MILLER: Okay. That's
5 admitted.

6 (Whereupon, the document was
7 marked for identification as
8 Protestant Exhibit 3 and was
9 received in evidence.)

10 MS. HARMON: So are you also
11 familiar with a Shadow Room event on Thursday
12 nights that is called Instant Chaos on
13 Thursday nights?

14 LIEUTENANT CRAIG: I have become
15 familiar with it through community meetings
16 where several citizens have complained about
17 issues on Thursday nights with noise and
18 disorderly activity after the club closes.

19 MS. HARMON: Did you review --
20 well, strike that.

21 And so do you regularly attend or
22 have you attended ANC meetings?

1 LIEUTENANT CRAIG: I have.

2 MS. HARMON: Okay. And were the
3 ANC Commissioners complaining?

4 LIEUTENANT CRAIG: It was the
5 citizens were the ones that were complaining.
6 It mainly happened when Shadow Room was trying
7 to get extensions of their hours of operation
8 or something like that. Citizens would stand
9 up and oppose and file complaints.

10 MS. HARMON: And did the citizens
11 or the ANC Commissioners -- were there
12 complaints about Thursday nights?

13 LIEUTENANT CRAIG: They were
14 centered on Thursday, Friday and Saturday, to
15 the best of my recollection.

16 MS. HARMON: You have heard
17 testimony that the other establishments that
18 may be causing some of the disturbances at
19 issue in this proceeding, are you familiar
20 with Look?

21 LIEUTENANT CRAIG: I am.

22 MS. HARMON: Okay. Where would --

1 and actually, I have an exhibit. This is
2 going to be Exhibit No. 4. I'll give you a
3 copy also.

4 MEMBER RODRIGUEZ: It's a big map,
5 a big map. I think it's this one.

6 CHAIRPERSON MILLER: Yes, we
7 would.

8 MEMBER RODRIGUEZ: Oh, okay, thank
9 you.

10 MS. HARMON: Okay. I'm going to
11 show you a map that I generated from the D.C.
12 Zoning Commission's website. Can you take a
13 look. Does it have the stickers, those yellow
14 stickers? Can you -- where is Look located?

15 LIEUTENANT CRAIG: Look is -- the
16 address is 1909 K Street, so on the map it
17 would be just to the left of 19th Street.

18 MS. HARMON: Is it right about
19 here?

20 LIEUTENANT CRAIG: Right about --
21 it says --

22 MS. HARMON: Okay. This is 21st.

1 This one here.

2 MEMBER ALBERTI: Ms. Harmon?

3 CHAIRPERSON MILLER: You need to
4 be on a mike.

5 MEMBER ALBERTI: Ms. Harmon, I'm
6 trying to be helpful here. We actually have--
7 in our report we have a map that has Look --

8 MS. HARMON: Okay.

9 MEMBER ALBERTI: -- marked on it.
10 In our report, I forget what exhibit it is in
11 our report, but Look is already marked on it.

12 CHAIRPERSON MILLER: Exhibit 6.

13 MEMBER ALBERTI: And I thought
14 that might be helpful to everybody.

15 MS. HARMON: Oh, okay. Okay.

16 CHAIRPERSON MILLER: It's in the
17 Investigator's report.

18 MS. HARMON: Thank you. We will
19 use your report.

20 MEMBER SILVERSTEIN: Is there a
21 Legend?

22 MS. HARMON: What page exhibit?

1 CHAIRPERSON MILLER: Well, it's
2 Exhibit 6 to the Investigator's report.

3 MEMBER ALBERTI: Exhibit 6 of the
4 investigative report. It has got all of the
5 establishments marked on it.

6 MS. HARMON: Okay.

7 MEMBER RODRIGUEZ: Circle it.

8 MS. HARMON: In the back. Okay.
9 So can you describe Look in relation to Shadow
10 Room in relation to where the residential area
11 is that is being affected?

12 LIEUTENANT CRAIG: The -- Look is
13 to the east of Shadow Room. And the majority
14 of my complaints have come out of 22nd Street.

15 CHAIRPERSON MILLER: But --

16 LIEUTENANT CRAIG: Residential.

17 CHAIRPERSON MILLER: Could you
18 repeat that? Your voice is --

19 LIEUTENANT CRAIG: That would be
20 the --

21 CHAIRPERSON MILLER: -- dropping.
22 I'm sorry.

1 LIEUTENANT CRAIG: I'm sorry. I'm
2 sorry.

3 CHAIRPERSON MILLER: Yes. We
4 definitely want to hear you.

5 LIEUTENANT CRAIG: Yes.

6 CHAIRPERSON MILLER: Okay.

7 LIEUTENANT CRAIG: Shadow Room is
8 in between 21st and 22nd Street and then Look
9 is to the east in the 1900 Block. The
10 complaints that I have received about noise
11 and disorderly behavior have mostly been in --
12 on 22nd Street, which is to the west of Shadow
13 Room, which is the other side. Look is on the
14 other side farther away.

15 MS. HARMON: And is Look on the
16 block where there is any residences,
17 residential dwellings or residences?

18 LIEUTENANT CRAIG: No.

19 MS. HARMON: Those are all
20 commercial?

21 LIEUTENANT CRAIG: It's all
22 commercial, as far as I know.

1 MS. HARMON: Okay. And let's look
2 at McFadden's.

3 LIEUTENANT CRAIG: All right.

4 MS. HARMON: Do you get -- well,
5 when you go to the ANC meetings or you talk to
6 residents, you get complaints about what?

7 LIEUTENANT CRAIG: I have not
8 gotten any complaints at the ANC meetings
9 about --

10 MS. HARMON: At ANC-2A meetings?

11 LIEUTENANT CRAIG: No.

12 MS. HARMON: When you go to ANC-2A
13 meetings, do you get as many complaints about
14 McFadden's?

15 LIEUTENANT CRAIG: No. They --
16 there have been some, but they have been a lot
17 less than there are about the Shadow Room.

18 MS. HARMON: Where is McFadden's
19 located in relationship to 22nd Street?

20 LIEUTENANT CRAIG: McFadden's is
21 actually two blocks west on the other side of
22 Washington Circle.

1 MS. HARMON: So you would have to
2 walk through Washington Circle?

3 LIEUTENANT CRAIG: Right. You
4 would have to walk through Washington Circle
5 to get to 22nd Street.

6 MS. HARMON: And do you know how
7 long Look has been operating?

8 LIEUTENANT CRAIG: I checked into
9 that. It looks like they opened up either
10 April or May of last year, 2013.

11 MS. HARMON: And did the
12 complaints about noise on Thursday nights
13 predate that date?

14 LIEUTENANT CRAIG: Yes, some of
15 the complaints did.

16 MS. HARMON: Now, these other
17 clubs. Let's see, let me ask you this. You
18 hear complaints about the -- from the
19 residents on Thursday and also Friday night.
20 Do you think -- and the residents seem to
21 believe the noise is coming from Shadow Room
22 patrons. Do you think a reimbursable police

1 detail or any type of police detail would
2 deter these complaints of these incidents?

3 LIEUTENANT CRAIG: I believe they
4 would deter it. You're never going to get rid
5 of everything, but having a police presence is
6 a deterrence and it has several benefits, in
7 that, the police can take action right away as
8 opposed to waiting for a 911 call to go
9 through a system and to make it to our radios
10 and then the travel time to the call.

11 The other thing is that, you know,
12 if they are on the detail stationed in front
13 of the club and the patrons go around the
14 corner and start there, they can get on their
15 radios and call for additional resources to
16 come in to kind of quell that if they are
17 needed in front of the club.

18 So it just cuts down response time
19 and it adds a presence to where it will deter
20 behavior like that.

21 MS. HARMON: Okay. Is -- if the
22 nightclub owner did not want to have a

1 reimbursable detail, which has nothing for
2 hours, is there another type of arrangement
3 that they can make with the police department?

4 LIEUTENANT CRAIG: That -- I
5 checked into that and I was not able to find
6 any answers of whether they could do something
7 on their own to reimburse the system.

8 MS. HARMON: Okay. Okay. I think
9 that's all the questions I have.

10 CHAIRPERSON MILLER: Okay. Cross?

11 CROSS-EXAMINATION

12 MR. MPRAS: Lieutenant Craig, what
13 is your current PSA?

14 LIEUTENANT CRAIG: 207.

15 MR. MPRAS: Thank you. And 207.
16 Obviously, Shadow Room is in 207. Is Look
17 also in 207?

18 LIEUTENANT CRAIG: Yes, it is.

19 MR. MPRAS: Do you know if Look is
20 in ANC-2A or is that in the Dupont Circle ANC?

21 LIEUTENANT CRAIG: I believe it's
22 in the Dupont Circle ANC.

1 MR. MPRAS: Do you attend their
2 meetings as well?

3 LIEUTENANT CRAIG: No. I just do
4 2A.

5 MR. MPRAS: So you wouldn't know
6 if people were complaining to their ANC about
7 look, since you are not there, obviously.

8 LIEUTENANT CRAIG: No.

9 MR. MPRAS: Okay. Lieutenant
10 Craig, there has been some question, what
11 exactly do you consider to be an ABRA incident
12 or violation, obviously, pursuant to DCMR?

13 LIEUTENANT CRAIG: An ABRA
14 incident, in my opinion, would be anything
15 that has happened in an ABC establishment or
16 around an ABC establishment that can be
17 connected to the ABC establishment. It
18 doesn't have to be a crime or anything like
19 that. It can just be an incident, which is
20 something that happened and we just want to
21 document it.

22 MR. MPRAS: Okay. So you are just

1 documenting any occurrence that comes to your
2 attention that may have happened at an ABC
3 establishment?

4 LIEUTENANT CRAIG: Yes.

5 MR. MPRAS: Thank you. And, sir,
6 you said you became familiar with issues about
7 -- or concerns about Shadow Room through
8 community meetings?

9 LIEUTENANT CRAIG: Through
10 community meetings and hearing radio runs that
11 go over the radio zone when I have been
12 working.

13 MR. MPRAS: Um-hum.

14 LIEUTENANT CRAIG: So there has
15 been two of those, right.

16 MR. MPRAS: Do you have any idea
17 how many radio runs -- you have been there two
18 years. I mean, give or take, do you know how
19 many radio runs you have had there?

20 LIEUTENANT CRAIG: Oh, my
21 goodness.

22 MR. MPRAS: If you don't know

1 exactly --

2 LIEUTENANT CRAIG: Yeah, I don't
3 know exactly. I mean, I can -- I really can't
4 answer that. I'm sorry.

5 MR. MPRAS: No, that's fine.
6 That's fair. Also, you have a lot of ABC
7 establishments in your PSA. Is that correct?

8 LIEUTENANT CRAIG: Yes.

9 MR. MPRAS: Okay. Would it be
10 fair to say that the -- you get radio runs for
11 all those establishments at one point or
12 another?

13 LIEUTENANT CRAIG: Yes, it is
14 fair.

15 MR. MPRAS: Now, Lieutenant Craig
16 you stated that Look was open April to May of
17 2013. Is it possible that it was open before
18 under a different name?

19 LIEUTENANT CRAIG: It used to be a
20 restaurant called Teatro Goldoni.

21 MR. MPRAS: And to your knowledge,
22 did they throw club-like parties there?

1 LIEUTENANT CRAIG: They did.

2 MR. MPRAS: Okay. So before it
3 was Look, it was still going on in some other
4 version?

5 LIEUTENANT CRAIG: It was. It was
6 very low-key. We didn't even know it was
7 going on or that it existed until an incident
8 one night where someone was stabbed.

9 MR. MPRAS: Okay.

10 LIEUTENANT CRAIG: After the club
11 had closed.

12 MEMBER SILVERSTEIN: Yeah, I
13 remember that.

14 MR. MPRAS: Okay. Now, is it true
15 that if a police -- a venue has a police
16 reimbursable detail, that that detail can be
17 called away on police business if necessary,
18 there should be -- by the Watch Commander of
19 the night clock or whomever?

20 LIEUTENANT CRAIG: It would be
21 very extreme circumstance. The only one I
22 recall was when the derecho came through and

1 just devastated the city and that night the
2 Watch Commander pulled all the details to help
3 deal with that public safety issue.

4 MR. MPRAS: So basically, you are
5 saying, to your knowledge it doesn't happen
6 often, but it does happen?

7 LIEUTENANT CRAIG: It has happened
8 once in two years.

9 MR. MPRAS: Once in two years,
10 okay. And can you tell me what the minimum
11 is, hour-wise and officer-wise for
12 reimbursable detail?

13 LIEUTENANT CRAIG: I cannot. I'm
14 not that familiar with the details.

15 MR. MPRAS: Okay. And do you --
16 who runs the reimbursable detail program for
17 the 2nd District?

18 LIEUTENANT CRAIG: We get a list
19 of where the details are supposed to be an
20 then there is an officer in the administrative
21 section that tracks it and officers sign up
22 through email and then she schedules and

1 tracks. And then she is notified when details
2 are canceled and that's how it's -- the
3 details are --

4 MR. MPRAS: So you don't directly
5 deal with that?

6 LIEUTENANT CRAIG: No, I don't.

7 MR. MPRAS: Okay.

8 LIEUTENANT CRAIG: No.

9 MR. MPRAS: Do you -- obviously,
10 as you stated, having police in the general
11 area cuts response time. In your PSA, how many
12 officers do you have in the midnight tour?

13 LIEUTENANT CRAIG: On the midnight
14 tour, we have anywhere from maybe 5 to 12.

15 MR. MPRAS: Does that number
16 change depending on the day of the week?

17 LIEUTENANT CRAIG: It depends,
18 yes, on the day of the week.

19 MR. MPRAS: Say Thursday, Friday,
20 Saturday, would that be a higher number?

21 LIEUTENANT CRAIG: That would be a
22 higher number, yes.

1 MR. MPRAS: Okay. Could you tell
2 me, approximately, how many on those days?

3 LIEUTENANT CRAIG: That would be a
4 higher number, maybe 9, 8 or 9.

5 MR. MPRAS: Okay. And then 12 on
6 Friday, Saturday?

7 LIEUTENANT CRAIG: Not 12. A few
8 officers have off Friday and Saturday, so
9 maybe 10.

10 MR. MPRAS: Those are officers.
11 How many officials?

12 LIEUTENANT CRAIG: Right now, I
13 don't have a sergeant, but officials are kind
14 of District-wide. They float where they are
15 needed.

16 MR. MPRAS: Okay. Understood.
17 And do you find that to be a sufficient number
18 to patrol in your PSA and respond effectively
19 to citizen needs?

20 LIEUTENANT CRAIG: It is to a
21 point.

22 MR. MPRAS: Okay.

1 LIEUTENANT CRAIG: At 2:00 when
2 the clubs start to close, we have so many that
3 it saps our resources and we need to actually
4 pull additional resources from the upper end
5 of the District to come down.

6 MR. MPRAS: 203?

7 LIEUTENANT CRAIG: From 202, 203,
8 204 and some nights even from the upper end
9 201.

10 MR. MPRAS: Um-hum.

11 LIEUTENANT CRAIG: We have --

12 MR. MPRAS: Where are those units
13 primarily sent?

14 LIEUTENANT CRAIG: Primarily, they
15 are sent to the 1400 Block of I Street, K
16 Street.

17 MR. MPRAS: Okay.

18 LIEUTENANT CRAIG: The 1700 Block
19 of I Street.

20 MR. MPRAS: Okay. That's --
21 you're talking about the end of D.

22 LIEUTENANT CRAIG: Correct.

1 CHAIRPERSON MILLER: I'm sorry,
2 what did you just say?

3 MR. MPRAS: Oh, the end of the
4 District where it borders the 1st and 2nd
5 District.

6 CHAIRPERSON MILLER: Okay. Thank
7 you.

8 MR. MPRAS: And that's a fair
9 distance from where Shadow Room is, correct?

10 LIEUTENANT CRAIG: The 1700 Block
11 of I is pretty close. It's about two blocks
12 away, I guess, maybe three, something like
13 that.

14 MR. MPRAS: Now, why are the sent
15 there? What's the specific need?

16 LIEUTENANT CRAIG: There are
17 several nightclubs located in those areas.
18 Like there is three or four right there around
19 14th and I, 14th and K.

20 MR. MPRAS: Um-hum.

21 LIEUTENANT CRAIG: And then there
22 is two in the 1700 Block of I Street, Asia and

1 Eden.

2 MR. MPRAS: Eden. Okay. And do
3 those -- do all those venues have a permanent
4 reimbursable details?

5 LIEUTENANT CRAIG: Most of them
6 do, yes.

7 MR. MPRAS: Do all of them?

8 LIEUTENANT CRAIG: No, not all of
9 them.

10 MR. MPRAS: Okay. And while the
11 reimbursable details does have its benefits,
12 can you fairly say that having a reimbursable
13 detail will eliminate any -- will eliminate
14 the problems being discussed here today,
15 meaning noise 300 and 400 feet away from
16 patrons, not the establishment?

17 LIEUTENANT CRAIG: Yes, you are
18 never going to eliminate that type of thing,
19 but you can deter it and lessen it to a great
20 degree by having a detail.

21 MR. MPRAS: Now, Lieutenant Craig,
22 could you turn to Tab 3, page 1, of

1 Protestant's Exhibit No. 3? All these calls
2 are to 2131 K Street. Is that correct?

3 LIEUTENANT CRAIG: Yes.

4 MR. MPRAS: Okay. Are all these
5 calls for Shadow Room?

6 LIEUTENANT CRAIG: It is -- let me
7 look. Some of them are not. You will have
8 cases like an accident where it happened
9 during the middle of the day.

10 MR. MPRAS: Um-hum.

11 LIEUTENANT CRAIG: You really
12 can't tell just because that's the address
13 given whether that call was specifically for
14 that address or that's just where it happened
15 to be.

16 MR. MPRAS: And that happens
17 sometimes?

18 LIEUTENANT CRAIG: Yes, sometimes
19 like you will have an accident and somebody
20 will look up and see an address on the house,
21 that's the address that it will carry on the
22 radio run, but it had nothing to do with what

1 happened in the house.

2 MR. MPRAS: Understood. Thank
3 you. Now, in the cases which you went through
4 earlier, was any police action taken against
5 the venue?

6 LIEUTENANT CRAIG: Other than just
7 having the ABC violation or incident reports,
8 there was nothing taken, like no shutdown, no
9 closings.

10 MR. MPRAS: Sir, can you
11 distinguish, please, you did earlier, but,
12 once again, between what is an incident and
13 what is a violation? Because you said they
14 are not one in the same.

15 LIEUTENANT CRAIG: Right. Well,
16 an incident would just be something happened
17 at the nightclub and we want to document it.
18 An ABC violation is something like underage
19 drinking or there was a fight inside the club
20 and, you know, there was some kind of
21 violation of the ABC laws or the law by the
22 club itself.

1 MR. MPRAS: And, sir, to your
2 knowledge and through looking at these
3 reports, that's not the case is it, as far as
4 violation?

5 LIEUTENANT CRAIG: These -- all
6 these reports look to be documenting crimes or
7 incidents that happened in the club or right
8 outside the club. They don't specify any
9 violation that the club committed on its own.

10 MR. MPRAS: Thank you. And
11 Lieutenant Craig, have you read the protest
12 report by the ABRA Investigator?

13 LIEUTENANT CRAIG: I have not.

14 MR. MPRAS: And have you ever
15 visited Shadow Room?

16 LIEUTENANT CRAIG: I have been by
17 there in passing, routine patrol. I have
18 never had an occasion to go by there when
19 something happened.

20 MR. MPRAS: So you have driven by,
21 basically, but you --

22 LIEUTENANT CRAIG: Yes.

1 MR. MPRAS: -- have never gone
2 inside?

3 LIEUTENANT CRAIG: No.

4 MR. MPRAS: Have you ever dealt
5 with any dealings or met the management or
6 staff?

7 LIEUTENANT CRAIG: No.

8 MR. MPRAS: Okay. So there hasn't
9 been anything that has risen to the level to
10 require your personal attention there?

11 LIEUTENANT CRAIG: No.

12 MR. MPRAS: Thank you very much,
13 sir.

14 CHAIRPERSON MILLER: Okay. Board
15 Members questions? Mr. Alberti?

16 MEMBER ALBERTI: Good evening,
17 Lieutenant. Is it Craig or Greg?

18 LIEUTENANT CRAIG: Craig.

19 MEMBER ALBERTI: Craig.

20 LIEUTENANT CRAIG: C-R-A-I-G, yes.

21 MEMBER ALBERTI: Thank you.

22 Lieutenant Craig, thank you for coming. Thank

1 you for your service. Okay. So Mr. Mpras
2 asked you how many radio runs you are aware of
3 for this establishment, for this address and
4 you didn't know. But can you venture a guess
5 of how frequent they were? Which is a
6 different measure. Was it once every six
7 months, once a year, once a week? I mean, if
8 you don't know, that's fine.

9 LIEUTENANT CRAIG: Yes, I don't
10 know. My normal days off are Thursday night
11 and Friday night.

12 MEMBER ALBERTI: Um-hum.

13 LIEUTENANT CRAIG: So from
14 personal experience, I'm not going to hear the
15 calls like I hear -- like on Saturday night,
16 I hear a lot for Look. I hear a lot for
17 Lotus, because I'm here on Saturday nights.
18 You know, being off Thursday night and Friday
19 night when the majority of the complaints I
20 have heard about, I'm not here. But I have
21 probably heard maybe five within the last six
22 months, five calls come out for the address.

1 MEMBER ALBERTI: And you are just
2 there Saturdays and Sundays?

3 LIEUTENANT CRAIG: I'm just there
4 Saturday night, Sunday night.

5 MEMBER ALBERTI: Okay.

6 LIEUTENANT CRAIG: Monday night,
7 Tuesday night.

8 MEMBER ALBERTI: So it was five or
9 six in the last six months?

10 LIEUTENANT CRAIG: Right.

11 MEMBER ALBERTI: Is that what you
12 said?

13 LIEUTENANT CRAIG: That's, you
14 know, off the top of my head what I can kind
15 of remember.

16 MEMBER ALBERTI: Now, we have this
17 list of calls for data -- calls for service
18 data, calls for service. So I think I know,
19 but I'm going to ask just to make sure. So
20 you have got these calls for service. Did
21 every one of these generate an incident
22 report?

1 LIEUTENANT CRAIG: No.

2 MEMBER ALBERTI: Okay.

3 LIEUTENANT CRAIG: If you see --
4 look on the right hand side and see Case No.

5 MEMBER ALBERTI: Um-hum.

6 LIEUTENANT CRAIG: Those are the
7 report numbers and those would have been the
8 ones that generated a police report.

9 MEMBER ALBERTI: Okay. So this
10 may be a little bit hypothetical, but were you
11 aware at all of an incident or a call for
12 service on March 6th?

13 LIEUTENANT CRAIG: Of 2013?

14 MEMBER ALBERTI: Of 2014.

15 LIEUTENANT CRAIG: 2014? I was
16 not. I was actually -- was I here? I don't
17 recall a run for that.

18 MEMBER ALBERTI: Okay. All right.
19 Well, I don't know if you were here for this
20 testimony, but earlier we heard someone
21 testify, a witness testify, that he observed
22 a disturbance outside of the establishment.

1 LIEUTENANT CRAIG: Right.

2 MEMBER ALBERTI: Around 2:00.

3 LIEUTENANT CRAIG: I actually
4 remember. I was not here that night. I was
5 not working that night.

6 MEMBER ALBERTI: Okay. So there
7 was that around 2:00.

8 LIEUTENANT CRAIG: Right.

9 MEMBER ALBERTI: And then he said
10 that it was about 15 or 20 minutes later that
11 the MPD Officers showed up. So assuming, this
12 is now a hypothetical, that the crowd had
13 dispersed and there was no incident actively
14 going on, at that point --

15 LIEUTENANT CRAIG: Um-hum.

16 MEMBER ALBERTI: -- would the
17 officers have written an incident report?

18 LIEUTENANT CRAIG: It would
19 honestly depend on when they asked what
20 happened, what they were told.

21 MEMBER ALBERTI: Okay.

22 LIEUTENANT CRAIG: It really

1 would. You know, if -- and that's the best I
2 can say. If they were told certain things,
3 they would take a report. If they were told
4 other things, they wouldn't take a report. So
5 I can't really say whether a report was
6 warranted in this situation.

7 MEMBER ALBERTI: Okay. So if I
8 see something and the call for service says
9 disorderly, I really don't know how serious
10 that was.

11 LIEUTENANT CRAIG: Yes.

12 MEMBER ALBERTI: You can't assume
13 anything about that. You only know that when
14 the MPD showed up, there was nothing there
15 that they had to write an incident report for.

16 LIEUTENANT CRAIG: Right.

17 MEMBER ALBERTI: And you don't
18 know what preceded that --

19 LIEUTENANT CRAIG: Right.

20 MEMBER ALBERTI: -- their arrival.
21 Is that correct?

22 LIEUTENANT CRAIG: Correct. The

1 only thing you would know is that based on
2 what the caller told the dispatcher, it was
3 classified as a disorderly, which is a lower
4 priority on the list as opposed to a serious
5 assault or a shooting or something.

6 MEMBER ALBERTI: Gotcha. And you
7 would have no information of how the incident
8 on March 6th was classified, would you?

9 LIEUTENANT CRAIG: No, I don't
10 know anything about that call.

11 MEMBER ALBERTI: Okay. I have no
12 further questions. Thank you for your
13 service.

14 CHAIRPERSON MILLER: Okay.
15 Others? Okay. Mr. Rodriguez?

16 MEMBER RODRIGUEZ: Lieutenant
17 Craig, --

18 LIEUTENANT CRAIG: Yes.

19 MEMBER RODRIGUEZ: -- thank you
20 for your service. You just indicated or you
21 responded just now, I want to make sure I
22 understand this, that the event that took

1 place that evening was a lower echelon event.

2 It was not a real serious event or --

3 LIEUTENANT CRAIG: I don't know
4 what the call was.

5 MEMBER RODRIGUEZ: Okay.

6 LIEUTENANT CRAIG: So I don't know
7 how they classified it, why the officers came
8 out.

9 MEMBER RODRIGUEZ: Okay.

10 LIEUTENANT CRAIG: So I don't know
11 anything about the 911 call that was made.

12 MEMBER RODRIGUEZ: Okay.

13 LIEUTENANT CRAIG: How it was
14 classified or I know I can't find a report in
15 the system.

16 MEMBER RODRIGUEZ: Yes, sir.

17 LIEUTENANT CRAIG: But I don't
18 know what the officers found when they
19 interviewed witnesses or whatever.

20 MEMBER RODRIGUEZ: Did you see the
21 -- were you here for the video that was shown?

22 LIEUTENANT CRAIG: Yes.

1 MEMBER RODRIGUEZ: I don't want to
2 take any more time and call everybody back to
3 the video, but you saw the video that we saw?

4 LIEUTENANT CRAIG: Yes.

5 MEMBER RODRIGUEZ: Would you call
6 that a brawl?

7 LIEUTENANT CRAIG: I would call
8 that a skirmish. I wouldn't call it a brawl.
9 A brawl --

10 MEMBER RODRIGUEZ: Would that have
11 -- have you in your experience have seen
12 skirmishes that, you know, escalated into
13 brawls?

14 LIEUTENANT CRAIG: Oh, yes,
15 absolutely.

16 MEMBER RODRIGUEZ: Could this
17 skirmish have escalated?

18 LIEUTENANT CRAIG: Based on what I
19 saw in the video, there wasn't enough people
20 out there to escalate into a brawl. But had
21 there been more people, sure.

22 MEMBER RODRIGUEZ: Was this an

1 arrestable offense?

2 LIEUTENANT CRAIG: Yes, it was.

3 MEMBER RODRIGUEZ: It was?

4 LIEUTENANT CRAIG: Yes.

5 MEMBER RODRIGUEZ: So if there had
6 been a police detail there, somebody would
7 have been arrested for public disorder or
8 something like that?

9 LIEUTENANT CRAIG: If they could
10 not break it up before it started, they would
11 have been arrested for disorderly, a fray at
12 minimum.

13 MEMBER RODRIGUEZ: Right. And one
14 of the gentleman that testified that took the
15 video indicated that maybe people could have
16 been pushed in the street or that people were
17 pushed in the street. I'm not sure exactly,
18 but that could have created a very dangerous
19 situation as well.

20 LIEUTENANT CRAIG: It could have.

21 MEMBER RODRIGUEZ: Okay. Thank
22 you. Thank you, Lieutenant, for your service.

1 CHAIRPERSON MILLER: Others? Oh,
2 okay, Mr. Short?

3 LIEUTENANT CRAIG: Thank you.

4 MEMBER SHORT: Thank you for your
5 service, Lieutenant.

6 LIEUTENANT CRAIG: Sure.

7 MEMBER SHORT: How many years do
8 you have with the Metropolitan Police
9 Department?

10 LIEUTENANT CRAIG: 24 years.

11 MEMBER SHORT: 24 years?

12 LIEUTENANT CRAIG: Yes, sir.

13 MEMBER SHORT: And have you been
14 in the 2nd District most of that career?

15 LIEUTENANT CRAIG: No. I have
16 only been here for two years.

17 MEMBER SHORT: Only two years.

18 LIEUTENANT CRAIG: That's correct.

19 MEMBER SHORT: Is the situation
20 with the nightclubs in PSA 207 better now that
21 it was two years ago or the same or it has
22 been escalated?

1 LIEUTENANT CRAIG: It is -- you
2 know, we have actually closed down some
3 problem areas and some more problem areas have
4 opened, so it has been about the same, I would
5 have to say.

6 MEMBER SHORT: So when you say you
7 have closed down some problem areas, were
8 these businesses?

9 LIEUTENANT CRAIG: They were
10 businesses. Different nightclubs, bars that
11 had promotional events and they had incidents
12 that were so egregious they were closed, but
13 then others opened up in their place.

14 MEMBER SHORT: By egregious, would
15 you explain that?

16 LIEUTENANT CRAIG: One, there was
17 an incident at a placed called the Rock Bar
18 where there was a stabbing inside and the --
19 when we got there, the employees of the
20 nightclub told us that it happened out front.

21 MEMBER SHORT: Uh-huh.

22 LIEUTENANT CRAIG: And what we

1 found out was that it actually happened inside
2 and they were inside cleaning up the blood and
3 the glass and everything to try and cover up
4 all the evidence, so that they wouldn't have
5 the ABRA incident/violation on their record.

6 And so we did a Club Closure Memo
7 for that and to my knowledge, they never
8 opened up after that as the Rock Bar.

9 MEMBER SHORT: Okay. Now, I do
10 understand that -- and I guess what I am --
11 and again, thank you brave police officers for
12 being out there trying to keep this city safe.
13 I admire you and thank you for your duty and
14 time. But we want to keep you safe also and
15 we want to make sure that these clubs don't
16 present you any danger, our citizens any
17 danger and themselves danger.

18 So do you have any, I mean, from a
19 professional point of view, suggestions that
20 we could -- anything that we could do
21 differently to aid in maybe de-escalating some
22 of this situation we are having?

1 LIEUTENANT CRAIG: You know, it is
2 very difficult to say because I have never put
3 myself in that kind of a mindset. I am kind
4 of like, you know, I'm told to go do
5 something, so I go do it, you know. I'm given
6 -- this is the way my PSA is. It has all
7 these nightclubs and I'm responsible for
8 keeping track of things and checking on things
9 and making sure we take care of business when
10 the time comes.

11 So it is kind of a difficult
12 question to answer. You know, I have never
13 put myself in that position to make
14 suggestions, but, you know, the details do
15 help. We have noticed that when certain
16 establishments end the details, the problems
17 creep up and we have to provide support from
18 somewhere else as opposed to the detail that
19 was there before.

20 MEMBER SHORT: Okay.

21 LIEUTENANT CRAIG: We -- you know,
22 and also, in the video you saw the bouncers

1 walking out in the street and pushing people
2 and separating and pushing people.

3 MEMBER ALBERTI: Right.

4 LIEUTENANT CRAIG: And things like
5 that. And the thing is is that police
6 officers can use force and we have a method of
7 investigating and justifying the force that is
8 used. Whereas a club bouncer, they don't have
9 that checking and balance. And it really kind
10 of makes a liability issue for the club itself
11 when the bouncers have to go out into the
12 street to break up a fight as opposed to
13 letting law enforcement handle the situation.

14 I don't blame them, because if
15 they don't step out and do that, then we have
16 got a big, big situation and people getting
17 hurt and all that. So the efforts are
18 definitely appreciated, but if the detail is
19 there, they don't need to do that and we can
20 just handle it. And then there is checks and
21 balances in place to make sure that our
22 actions are justified.

1 MEMBER SHORT: So the more RDOs
2 you have, the safer we are and the clubs are?

3 LIEUTENANT CRAIG: I would say so,
4 yes. The more details you have, the safer you
5 are going to be. It's a bigger deterrent and,
6 you know, you just got resources that can get
7 there quicker with the radios and I believe
8 the public is safer with RDOs.

9 MEMBER SHORT: Thank you,
10 Lieutenant Craig.

11 LIEUTENANT CRAIG: You're welcome.

12 CHAIRPERSON MILLER: Mr.
13 Silverstein?

14 MEMBER SILVERSTEIN: Thank you,
15 Lieutenant for your service. It's good to see
16 you. You mentioned that Thursday and Friday
17 are your regular nights off.

18 LIEUTENANT CRAIG: Yes.

19 MEMBER SILVERSTEIN: Have you been
20 out there on any Thursday or Friday nights
21 when there have been any incidents or noise
22 complaints in that area you referenced?

1 LIEUTENANT CRAIG: No. I have
2 gone through there on weekends or an
3 occasional weekend where I have to work and I
4 have seen small crowds out front, lines out
5 front, but I have never seen anything
6 personally that would cause me any kind of --

7 MEMBER SILVERSTEIN: Right.

8 LIEUTENANT CRAIG: -- you know,
9 but that would have been earlier around 11:00,
10 12:00. I have never really been through there
11 like at 2:00 or 3:00, because if I'm out
12 there, I'm down at 1400 Block of I Street or--

13 MEMBER SILVERSTEIN: There is a
14 heck of a lot more going on down there.

15 LIEUTENANT CRAIG: There is a
16 whole lot more.

17 MEMBER SILVERSTEIN: And greater
18 demand on your resources?

19 LIEUTENANT CRAIG: Yes.

20 MEMBER SILVERSTEIN: Have you at
21 any time, even on the other weekend days been
22 down to check out the noise situation, how

1 that might affect the quality of life on the
2 people in the triangle area there at 22nd
3 Street? Can you speak to that or --

4 LIEUTENANT CRAIG: I really can't.

5 MEMBER SILVERSTEIN: Okay.

6 LIEUTENANT CRAIG: Because the
7 times I have gone through there, they have
8 been closed.

9 MEMBER SILVERSTEIN: Pardon?

10 LIEUTENANT CRAIG: The nights I
11 have gone through there, the club has been
12 closed, so I really can't.

13 MEMBER SILVERSTEIN: Okay. Well,
14 then you can't speak to quality of life issues
15 regarding the ability to get a good night's
16 sleep.

17 Would an RDO make a meaningful
18 impact on the lives of residents there?

19 LIEUTENANT CRAIG: I think it
20 would because like I said the resources -- if
21 the problem happens around the corner and up
22 in the next block, the officers on the detail,

1 if they can't leave to take care of it, they
2 can still call additional resources in and
3 have it there within a fairly short period of
4 time.

5 And once -- and we saw this with
6 the clubs down towards like The Park and
7 things like that, once the presence was there,
8 it kind of curtailed things from happening.
9 Still, like I said, it's only a deterrent.
10 It's never going to get rid of it, but it does
11 deter it.

12 MEMBER SILVERSTEIN: No further
13 questions. Thank you for your service.

14 CHAIRPERSON MILLER: Others? I
15 have some questions then. From what I hear
16 you saying, I think that reimbursable detail
17 is ideal and a nice thing to have to increase
18 public safety. But are there circumstances
19 that you can identify that you would say would
20 actually warrant reimbursable detail? I mean,
21 would a skirmish or two warrant a --

22 LIEUTENANT CRAIG: I think

1 incidents like that that happen on a frequent
2 basis would warrant that.

3 CHAIRPERSON MILLER: Okay. And
4 what do you mean by frequent?

5 LIEUTENANT CRAIG: Frequent, I
6 would say if they are happening, you know, a
7 couple times a month, that's frequent enough
8 because skirmishes have a habit of turning
9 into brawls, which then more people get hurt
10 or it spills out into the street. And you
11 know, it doesn't take long, and we have seen
12 it over at Connecticut and M with all the
13 nightclubs over there, for it to really get
14 out of control.

15 CHAIRPERSON MILLER: With respect
16 to these incident reports, these are cases
17 where somebody called 911 when something was
18 happening in the club, right?

19 LIEUTENANT CRAIG: Yes.

20 CHAIRPERSON MILLER: Is there a
21 response time that is general or does it vary
22 depending where the police are?

1 LIEUTENANT CRAIG: It will vary
2 depending on many, many different variables.
3 I mean, it's whether we have calls backed up,
4 whether officers are locked in on scenes where
5 they can't leave. It can depend on how many
6 people we have working that night.

7 CHAIRPERSON MILLER: Right.

8 LIEUTENANT CRAIG: There are so
9 many variables that would go into response
10 time. It would depend on how it is classified
11 in the 911 system. So to give you a regular
12 response time, you know, I really can't do it.

13 CHAIRPERSON MILLER: Okay. Can I
14 assume from these reports though that the
15 police were able to get here in time to
16 prevent injury or --

17 LIEUTENANT CRAIG: I mean, these
18 instances -- you know, these were all 911
19 calls made after the events. It looks like
20 the events were -- either that or the club
21 staff may have quelled the situation before
22 the police got there. Because there is no

1 mention of a use of force or anything like
2 that.

3 And any mention of the police,
4 it's like the police showed up after things
5 were over.

6 CHAIRPERSON MILLER: So it was
7 fine.

8 LIEUTENANT CRAIG: Right.

9 CHAIRPERSON MILLER: From what you
10 saw in the video, would you say that the
11 security handled that skirmish properly or
12 not?

13 LIEUTENANT CRAIG: You know, they
14 did well in the actions they took in stopping
15 it from escalating. However, they are
16 employees of the club. They are not police
17 officers. Once they venture out on the public
18 space, you know, the line is kind of crossed,
19 in my opinion. It is kind of crossed.

20 And while those citizens have the
21 right to step in and make citizens arrest for
22 things like, you know, disorderly fights and

1 things like that, it wasn't a situation where
2 citizens arrests were made. They clearly came
3 out and pushed them apart and sent them on
4 down the street and that was the end of it.

5 So did it keep it from escalating?
6 Yes, and that's a good thing. But you've got
7 to be wary of incidents where private
8 employees are out on public space taking care
9 of matters like that.

10 MEMBER RODRIGUEZ: That's the
11 point I was making.

12 CHAIRPERSON MILLER: Okay. I have
13 one other question. Probably, I'm sure, our
14 staff knows the answer to this and maybe some
15 of the Board Members, but anyway for the
16 record, I would like to ask you the applicant
17 raised a question about the expense of the
18 reimbursable detail.

19 And so my question is are you
20 aware whether that expense and the detail can
21 be shared by another establishment? For
22 instance, if Look is a problem or a potential

1 problem and, you know, Shadow has crowds as
2 well, can -- is that done? Do they share?

3 LIEUTENANT CRAIG: To my
4 understanding it is one detail for one
5 establishment. And the reason I say that is
6 Eden and Asia right next door, they have the
7 same owner.

8 CHAIRPERSON MILLER: Um-hum.

9 LIEUTENANT CRAIG: And one detail
10 had four officers and the other one had two
11 and they were not shared. They were -- this
12 was the Eden detail, this was the Asia detail.

13 CHAIRPERSON MILLER: Okay.

14 LIEUTENANT CRAIG: And you
15 couldn't intermix the officers. They had to
16 be -- you know, and even though it was right
17 next door.

18 CHAIRPERSON MILLER: Okay.

19 LIEUTENANT CRAIG: So to say that
20 nightclubs could share a detail -- the thing
21 is though, I mean, if they went and did it on
22 their own as a voluntary thing and paid out of

1 their own pocket for the whole thing, it may
2 be possible. I don't know.

3 CHAIRPERSON MILLER: Oh, right.
4 Okay.

5 LIEUTENANT CRAIG: But Shadow Room
6 and Look are kind of far apart.

7 CHAIRPERSON MILLER: Yes, okay.

8 LIEUTENANT CRAIG: I don't know
9 whether they would be able to get that
10 accomplished.

11 CHAIRPERSON MILLER: Okay. Okay.
12 Those are all my questions. Anybody else?
13 Any questions based on Board questions? Yes,
14 okay.

15 RE CROSS-EXAMINATION

16 MR. MPRAS: Lieutenant Craig, I
17 have listened to your testimony for
18 reimbursable detail. I would like to ask you,
19 do you believe it's necessary for every ABC
20 establishment to have reimbursable detail?

21 LIEUTENANT CRAIG: No.

22 MR. MPRAS: Do you believe that an

1 ABC establishment is able to run properly
2 without reimbursable detail?

3 LIEUTENANT CRAIG: I believe they
4 can, yes.

5 MR. MPRAS: Okay. Now, you also
6 testified that problems creep up after -- if
7 they have a detail after it ends. Is that
8 correct?

9 LIEUTENANT CRAIG: Yes, that has
10 been my experience.

11 MR. MPRAS: Okay. I'm going to
12 show you page 12 of the ABRA Investigative
13 Report, please. And Shadow Room had a detail
14 for a period of time until, I believe it was,
15 December 2010.

16 CHAIRPERSON MILLER: Get back on
17 the mike.

18 MR. MPRAS: I'm sorry. Until
19 December of 2010. Based on that ABRA Incident
20 Report, can you tell me if problems have gone
21 up or gone down?

22 LIEUTENANT CRAIG: I can't tell

1 because their incidents -- oh, wait a second,
2 hang on, hang on, hang on. Okay. You said
3 what?

4 MR. MPRAS: It was December of
5 2010.

6 LIEUTENANT CRAIG: December of
7 2010.

8 MR. MPRAS: When they stopped the
9 detail.

10 LIEUTENANT CRAIG: Okay. Since
11 the detail ended, the incidents have gone
12 down.

13 MR. MPRAS: Thank you.

14 LIEUTENANT CRAIG: Um-hum.

15 MR. MPRAS: And going back to the
16 MPD reports which you testified to, I have
17 five incident reports in that Tab 1 dating
18 from 2011 to 2013. Based on this, would you
19 consider that a problem establishment?

20 CHAIRPERSON MILLER: Sorry, based
21 on this what?

22 MR. MPRAS: Based on having only

1 five incident reports between 2011 and 2013,
2 Exhibit 1, would you consider that a problem
3 establishment? Concerning what you said
4 earlier where it happened every -- twice a
5 month or so.

6 LIEUTENANT CRAIG: The -- based on
7 what I said. Okay. There is five incident
8 reports, that alone would not warrant a
9 detail. Oh, this? Yes, absolutely. There
10 you go.

11 MR. MPRAS: No further questions.

12 CHAIRPERSON MILLER: Okay. Thank
13 you. Any redirect?

14 MS. HARMON: Yes, I have some
15 questions.

16 RE-REDIRECT EXAMINATION

17 MS. HARMON: Lieutenant Craig, if
18 you could look back at the page Mr. Mpras was
19 showing you, page 12, do you know if this
20 investigation is complete?

21 LIEUTENANT CRAIG: I do not know
22 whether this investigation is complete.

1 MS. HARMON: Did you have any
2 suspicions whether it was complete based on
3 the wording of the paragraph above it?

4 LIEUTENANT CRAIG: "As of March
5 6th, unable to make contact with anyone."
6 Okay. He is saying he couldn't make contact
7 with anybody at the Office of Unified
8 Communications, so there may be more.

9 MS. HARMON: Okay.

10 LIEUTENANT CRAIG: But it's just
11 not listed.

12 MS. HARMON: Thank you. Would
13 your opinion of whether there should be a
14 police detail or not -- is it in fact affected
15 by police reports?

16 LIEUTENANT CRAIG: No, it's
17 affected by several other things, issues with
18 traffic, parking issues, citizen complaints.
19 We take the whole picture into consideration.

20 MS. HARMON: And would you still
21 feel that it would be beneficial for Shadow
22 Room, given the citizen complaints and the

1 additional factors you mentioned, to have a
2 police detail?

3 LIEUTENANT CRAIG: On the high
4 volume night, yes, I would say so.

5 MS. HARMON: Okay. Thank you.

6 CHAIRPERSON MILLER: Could you
7 clarify that? On the high volume of what?

8 LIEUTENANT CRAIG: Nights where
9 they are having -- they have a lot of patrons
10 coming into the club and then once they get
11 out on the street, it's more of a risk of
12 fights, skirmishes, disorderly behavior.

13 CHAIRPERSON MILLER: Okay. I just
14 wanted to clarify what your conclusion is here
15 that Shadow Room should have reimbursable
16 detail because of -- or when it has high
17 volume?

18 LIEUTENANT CRAIG: That's when I'm
19 getting -- the majority of the complaints are
20 coming in for the nights where they have their
21 promotions with a lot of patrons coming in and
22 that's when the complaints for the disorderly

1 behavior and the fights and things like that,
2 that's what I'm hearing from the citizens.

3 I would say on those nights where
4 they have that high volume with the patrons
5 coming in, that's when the majority is in,
6 that's when I would say that the detail is
7 required, yes.

8 CHAIRPERSON MILLER: Okay. And do
9 you have a number of patrons in mind or just
10 in general?

11 LIEUTENANT CRAIG: I don't really
12 have a number of patrons in mind.

13 CHAIRPERSON MILLER: Okay.

14 LIEUTENANT CRAIG: I don't know
15 how the business operates or how many patrons
16 come in on a nightly basis.

17 CHAIRPERSON MILLER: I'm sorry.
18 And I just want to know, that conclusion is
19 from what?

20 LIEUTENANT CRAIG: Just looking at
21 the reports and listening to citizens
22 complaints and just listening to officers,

1 things the officers have said.

2 CHAIRPERSON MILLER: Okay. And
3 which reports are you referring to?

4 LIEUTENANT CRAIG: The first in
5 Tab 1.

6 CHAIRPERSON MILLER: Okay. The
7 one with the incident reports?

8 LIEUTENANT CRAIG: Right, the
9 incident reports.

10 CHAIRPERSON MILLER: Okay. Okay.
11 Any other Board questions? Did you need to
12 follow-up on my questions?

13 MR. MPRAS: Yes, ma'am.

14 CHAIRPERSON MILLER: Okay.

15 RE-RECROSS EXAMINATION

16 MR. MPRAS: Lieutenant Craig, have
17 any of the noise complaints ever been
18 documented by MPD?

19 LIEUTENANT CRAIG: To my
20 knowledge, no.

21 MR. MPRAS: Okay. Also,
22 Lieutenant Craig, are you aware that the

1 Shadow Room does employ reimbursable details
2 when it is expecting -- when it has a special
3 high volume event?

4 LIEUTENANT CRAIG: I am aware of
5 that, yes.

6 MR. MPRAS: Okay. And they --
7 were you aware they had one last Sunday?

8 LIEUTENANT CRAIG: No, I did not
9 know that.

10 MR. MPRAS: Okay. Thank you.

11 LIEUTENANT CRAIG: Sure.

12 CHAIRPERSON MILLER: Any redirect?

13 MS. HARMON: No. No, ma'am.

14 CHAIRPERSON MILLER: Okay. Thank
15 you very much.

16 (Whereupon, witness was excused.)

17 MS. HARMON: Mr. Labas is getting
18 our next witness, Steve Mendelbaum. But if I
19 could just get an update on my time?

20 MEMBER JONES: The protestants
21 have 31 minutes remaining. The licensee has
22 24 minutes remaining.

1 MS. HARMON: Go to the stand.

2 CHAIRPERSON MILLER: I've got to
3 swear you in.

4 MR. MENDELBAUM: What?

5 CHAIRPERSON MILLER: I'm going to
6 swear you in first.

7 MR. MENDELBAUM: Okay.

8 Whereupon,

9 STEVE MENDELBAUM
10 was called as a witness for the protestant,
11 and having been first duly sworn, assumed the
12 witness stand and was examined and testified
13 as follows:

14 CHAIRPERSON MILLER: Okay. Thank
15 you. Have a seat.

16 MS. HARMON: Does Mr. Labas have
17 to leave because he is representing.

18 CHAIRPERSON MILLER: He is a
19 party?

20 MR. MPRAS: He's not the
21 designated representative.

22 CHAIRPERSON MILLER: You are

1 saying you don't mind if he stays?

2 MR. MPRAS: No. I do mind if he
3 stays.

4 CHAIRPERSON MILLER: You do?

5 MR. MPRAS: Because Ms. Harmon is
6 representing everyone today as we discussed
7 earlier.

8 MS. HARMON: Okay. That's fine.

9 MR. LABAS: Okay.

10 CHAIRPERSON MILLER: All right.
11 Is there testimony on the same subject?

12 MEMBER RODRIGUEZ: He's one of the
13 protestants.

14 MEMBER ALBERTI: He is a
15 protestant. They are both -- both of these
16 parties are protestants.

17 MS. HARMON: Yes, it's fine. It's
18 fine.

19 MEMBER ALBERTI: No.

20 MEMBER SILVERSTEIN: No.

21 CHAIRPERSON MILLER: No. No,
22 please.

1 MEMBER SILVERSTEIN: It's not
2 fine.

3 CHAIRPERSON MILLER: We need a
4 decision to make about it.

5 MEMBER JONES: It's not fine.

6 CHAIRPERSON MILLER: They are
7 testifying on the same subject.

8 MR. MPRAS: Yes.

9 CHAIRPERSON MILLER: Is that
10 right? You object to having him in the room,
11 based on

12 MEMBER SILVERSTEIN: But he is a
13 protestant.

14 MEMBER ALBERTI: He's a
15 protestant. He has a legal right to be here.

16 MEMBER SILVERSTEIN: He is party
17 to one of the protests.

18 CHAIRPERSON MILLER: Okay.

19 MR. MPRAS: Everyone on the list,
20 some of them were witnesses, are protestants
21 because they signed the group of five protest.
22 The --

1 MEMBER SILVERSTEIN: He is the
2 head of the --

3 CHAIRPERSON MILLER: He is a party
4 though. He is a party. They are entitled to
5 be here.

6 MEMBER ALBERTI: Mr. Mpras, if you
7 had two people who were partners in the
8 business, both of them would be allowed to
9 stay because they are both parties for the
10 licensee. These people are parties to the
11 protest.

12 MEMBER SILVERSTEIN: He is a party
13 to a group of five.

14 MR. MPRAS: I'm not going to argue
15 with you. It's just pursuant to --

16 CHAIRPERSON MILLER: Okay.

17 MR. MPRAS: -- one person having
18 been appointed to represent the group, I was
19 just going off of that, but however you
20 determine is fine.

21 CHAIRPERSON MILLER: No, but --

22 MEMBER ALBERTI: That's a twist I

1 have never heard.

2 CHAIRPERSON MILLER: All right.

3 So but it's based on the fact that he is a
4 party.

5 MS. HARMON: He is designated.

6 CHAIRPERSON MILLER: But I would
7 say they may be testifying on the same thing.
8 We really don't want it to be redundant, you
9 know, so --

10 MS. HARMON: Okay. We will make
11 sure it's not redundant.

12 CHAIRPERSON MILLER: Okay. It
13 will be different anyway.

14 MS. HARMON: And we have only got
15 30 minutes left.

16 CHAIRPERSON MILLER: Okay.

17 MS. HARMON: So we will take care
18 of that.

19 DIRECT EXAMINATION

20 MS. HARMON: Could you state your
21 name and address for the record?

22 MR. MENDELBAUM: Steven

1 Mendelbaum, 1099 22nd Street, N.W.

2 MS. HARMON: And what is -- is
3 that a condominium building?

4 MR. MENDELBAUM: It is a
5 condominium building.

6 MS. HARMON: And what's the name
7 of the condominium building?

8 MR. MENDELBAUM: West End Place.

9 MS. HARMON: And how long have you
10 lived there?

11 MR. MENDELBAUM: 11 months now.

12 MS. HARMON: And do you have any
13 children?

14 MR. MENDELBAUM: I do. I have a 4
15 year-old. I'm sorry. I have a 2 year-old.

16 MS. HARMON: 2 year-old?

17 MR. MENDELBAUM: Yes.

18 MS. HARMON: Okay. Is it a boy or
19 a girl?

20 MR. MENDELBAUM: It's a boy.

21 MS. HARMON: A little boy. And
22 are you friendly with other parents in this

1 particular condominium building?

2 MR. MENDELBAUM: I am.

3 MS. HARMON: And how many young
4 children are in the building?

5 MR. MENDELBAUM: I think at last
6 count we have got 14.

7 MS. HARMON: So 14 children under
8 the age of what?

9 MR. MENDELBAUM: 14, I guess,
10 under the age of 10, 12 of which are under 4.

11 MS. HARMON: 4, okay. And the
12 condominium building is located where in
13 relation to Shadow Room?

14 MR. MENDELBAUM: It is located,
15 basically, on the same block across the alley.

16 MS. HARMON: Okay. Now, we are
17 going to have -- I appreciate that the map is
18 in the ABRA report, but we wanted to make --
19 Mr. -- well, I'll go ahead and let you
20 testify. We did some Google Maps that might
21 be helpful to his testimony, but we will wait
22 and let him testify and we can decide whether

1 to look it up.

2 Where is your condominium located
3 in relation to Shadow Room?

4 MR. MENDELBAUM: So half of my
5 apartment faces their back door, I guess it
6 would be. So that building. So I overlook
7 directly a little bit over to the -- a little
8 bit diagonal more south than east.

9 MS. HARMON: And you face the
10 alley, the part of your --

11 MR. MENDELBAUM: Yep.

12 MS. HARMON: And where does your
13 bedroom face?

14 MR. MENDELBAUM: My master bedroom
15 faces the alley.

16 MS. HARMON: It faces the alley?

17 MR. MENDELBAUM: It faces that
18 building.

19 MS. HARMON: So your bedroom
20 doesn't face 22nd Street?

21 MR. MENDELBAUM: It does not.
22 Nothing on my unit faces 22nd Street.

1 MS. HARMON: Okay. When you are
2 inside your condo, specifically your bedroom,
3 have you been disturbed by outside noise late
4 at night?

5 MR. MENDELBAUM: I have.

6 MS. HARMON: And where was this
7 noise coming from?

8 MR. MENDELBAUM: It was coming
9 from the alley. At times, there were
10 screaming from the alley -- the people in the
11 alley. Other times I heard loud music, so
12 that would be -- we couldn't go to sleep. We
13 woke up. We were actually curious what it
14 was.

15 MS. HARMON: And what type of
16 music was it?

17 MR. MENDELBAUM: I mean, normal
18 like, I don't know what you would call it,
19 hip-hop, you know, dance music.

20 MS. HARMON: And are there any
21 other businesses on that block that are open?
22 Oh, I should ask, approximately, what time of

1 day was this?

2 MR. MENDELBAUM: It was somewhere
3 between 12:00 and 1:00.

4 MS. HARMON: In the morning?
5 12:00 a.m.?

6 MR. MENDELBAUM: Yeah, right after
7 midnight.

8 MS. HARMON: Okay.

9 MR. MENDELBAUM: Midnight.

10 MS. HARMON: And are there any
11 other businesses in this block that your
12 bedroom faces that are in operation at this
13 time of night?

14 MR. MENDELBAUM: No, I don't think
15 anyone is in operation basically at night.

16 MS. HARMON: Okay. Are you
17 familiar with an event, a regular Thursday
18 night event at Shadow Room called Urban Night
19 or Instant Chaos?

20 MR. MENDELBAUM: Not particularly.

21 MS. HARMON: Okay. But wouldn't--
22 have you heard of the Thursday night events at

1 Shadow Room?

2 MR. MENDELBAUM: I mean, I have
3 heard that they have events, you know, on
4 Thursdays, Fridays and Saturdays. I don't
5 know what events they have got.

6 MS. HARMON: Okay. Okay. When
7 you heard the screaming in the alley, did you
8 call the police?

9 MR. MENDELBAUM: Yeah, on about
10 two or three occasions I did call the police.

11 MS. HARMON: Okay. And --

12 MR. MENDELBAUM: I mean, I waited
13 a couple of minutes to see if, you know, maybe
14 this was just, you know, a couple minutes of
15 noise and it would go away, but after about
16 15, 20 minutes, I called the police because I
17 just didn't know what else to do.

18 MS. HARMON: Okay. And let's see,
19 any other details of these that you want to
20 provide us?

21 MR. MENDELBAUM: No. I mean, you
22 know, I was actually curious how long they

1 would continue to go on, but -- until the
2 patrol car sort of came through the alley, it
3 just continued. And I don't know what the
4 police did, but it went away and it stopped.

5 MS. HARMON: Okay. Okay. Great.
6 I have no other --

7 CHAIRPERSON MILLER: Okay. Cross?

8 CROSS-EXAMINATION

9 MR. MPRAS: Mr. Mendelbaum?

10 MR. MENDELBAUM: Yes.

11 MR. MPRAS: Okay. Mr. Mendelbaum,
12 you said your windows face the alley. Is that
13 correct?

14 MR. MENDELBAUM: That's correct.

15 MR. MPRAS: Okay. And you said
16 there was noise from the alley with screaming
17 when Ms. Harmon asked you about it?

18 MR. MENDELBAUM: Yep.

19 MR. MPRAS: Okay. When did this
20 happen?

21 MR. MENDELBAUM: In the middle of
22 the night, so somewhere around --

1 MR. MPRAS: The date, please.

2 MR. MENDELBAUM: I don't remember
3 the date.

4 MR. MPRAS: You don't remember the
5 date?

6 MR. MENDELBAUM: The ABC can check
7 the police logs.

8 MR. MPRAS: A month, two months?

9 MR. MENDELBAUM: Oh, it was some
10 time in --

11 MR. MPRAS: Ballpark figure.

12 MR. MENDELBAUM: -- yeah, there
13 were two or three times.

14 MR. MPRAS: Um-hum.

15 MR. MENDELBAUM: I think it was
16 twice some time in November and once some time
17 in, I think, December time frame.

18 MR. MPRAS: Okay. Twice in
19 November and once in December?

20 MR. MENDELBAUM: Yes.

21 MR. MPRAS: Okay.

22 MR. MENDELBAUM: It was bad enough

1 where I was like -- once I thought something,
2 you know, bad was happening. There was a lot
3 of screaming, which was loud noise. I think
4 they were just loudly yelling at each other.
5 Once it was something that seemed --

6 MR. MPRAS: I know you know where
7 Shadow Room is located.

8 MR. MENDELBAUM: Yes.

9 MR. MPRAS: But were you able to
10 see the individuals that were producing the
11 noise from your window or balcony or anywhere
12 from your apartment?

13 MR. MENDELBAUM: On one occasion I
14 saw them sort of at the corner of the adjacent
15 wall on the outside like in the alley. And
16 other times I just heard the noise coming from
17 that vicinity.

18 MR. MPRAS: Okay. Could you with
19 certainty tell us where these people came
20 from?

21 MR. MENDELBAUM: No.

22 MR. MPRAS: Okay.

1 MR. MENDELBAUM: I mean, I didn't
2 trace them out of the building.

3 MR. MPRAS: You didn't see them
4 coming from anywhere? When you observed them,
5 you just saw them there when you heard the
6 noise?

7 MR. MENDELBAUM: Um-hum.

8 MR. MPRAS: Okay. Sir, do you
9 know how many ABC establishments you have in
10 the vicinity?

11 MR. MENDELBAUM: What do you
12 consider the vicinity?

13 MR. MPRAS: Say within 1,000
14 yards.

15 MR. MENDELBAUM: 1,000 yards? I
16 have no idea who has got a liquor license. I
17 imagine we must have one. I imagine we just
18 have half a dozen. It could be.

19 MR. MPRAS: And would it be fair
20 to say that a lot of GW students frequent
21 those establishments?

22 MR. MENDELBAUM: Yeah, I would say

1 so.

2 MR. MPRAS: Okay. All right. Mr.
3 Mendelbaum, no further questions. Thank you
4 very much.

5 CHAIRPERSON MILLER: Mr.
6 Silverstein?

7 MEMBER SILVERSTEIN: Mr.
8 Mendelbaum?

9 MR. MENDELBAUM: Yes.

10 MEMBER SILVERSTEIN: What night of
11 the week did these events occur?

12 MR. MENDELBAUM: Um, two of them
13 on Thursday and one was on a Friday, I
14 believe.

15 MEMBER SILVERSTEIN: At about what
16 time?

17 MR. MENDELBAUM: Somewhere after
18 midnight. Like between midnight and 1:00.

19 MEMBER SILVERSTEIN: Do you think
20 that these involved patrons of Shadow Room and
21 is there any reason to be certain?

22 MR. MENDELBAUM: Is there any

1 reason to be certain?

2 MEMBER SILVERSTEIN: Do you have--

3 MR. MENDELBAUM: Do I have any?

4 MEMBER SILVERSTEIN: Is this just
5 conjecture?

6 MR. MENDELBAUM: Um, right. I
7 have lived around the area for 14 years now
8 and so college students are a way of life.
9 They frequent -- they don't seem like normal
10 college students that would be out. It's
11 Thursday night. It's not typically a night
12 where they are out all over the place
13 partying.

14 You know, that's -- their peak
15 night seems to be, you know, late Fridays and
16 Saturdays, because that's when they don't have
17 classes. It just seems that it's whenever
18 that club is open, there seems to be a lot of
19 activity in that area.

20 I mean, unless there is a lot of
21 college students who just happen to hang out
22 by that particular part of the block -- I

1 mean, these other -- I'll give a great
2 example.

3 We have got other establishments,
4 so my apartment goes across from the alley,
5 windows on one side and then the other side is
6 L Street. We have establishments on L Street.
7 We don't hear any of that noise and it's only
8 in the alley. So it's just odd that people
9 would be hanging out in the alley for other
10 reasons. There is nothing else on the block.

11 MEMBER SILVERSTEIN: Does there
12 seem to be a different vibe on a Thursday
13 night at that club than Friday and Saturday?

14 MR. MENDELBAUM: Certainly
15 Saturday. I almost never see anything on
16 Saturdays. Sometimes you wouldn't even notice
17 it. Certainly on Thursday and Fridays yes.

18 MEMBER SILVERSTEIN: So you are
19 saying even though this is a bigger crowd on
20 Saturday, that there is a louder or rougher or
21 more rowdy crowd on Thursday when they have
22 this Instant Chaos?

1 MR. MENDELBAUM: I don't know if
2 it's rough or more rowdy, but they are
3 certainly louder and they make more noise.

4 MEMBER SILVERSTEIN: But you are
5 basing that only on these two, on these three
6 incidents, two of which happened on -- or are
7 you basing this on just the general thing of
8 which these two things are paramount?

9 MR. MENDELBAUM: The latter.

10 MEMBER SILVERSTEIN: Okay. No
11 further questions.

12 CHAIRPERSON MILLER: Others?

13 MEMBER RODRIGUEZ: No, ma'am.

14 CHAIRPERSON MILLER: Okay. I
15 would ask you, first of all, the people you
16 hear, did you say they are college students?

17 MR. MENDELBAUM: No, no, no.

18 CHAIRPERSON MILLER: They are not
19 college students?

20 MR. MENDELBAUM: They don't seem
21 like college --

22 CHAIRPERSON MILLER: Oh, okay.

1 MR. MENDELBAUM: -- I mean, it's
2 impossible to know, but they don't seem like
3 typical GW students.

4 CHAIRPERSON MILLER: Okay. And
5 why is that?

6 MR. MENDELBAUM: Um, I've lived
7 around there for 14 years. I have never heard
8 this sort of loud screaming and music and
9 things like that. I mean, it's hard to
10 explain, but it seems like, you know, college
11 kids out in groups and partying just don't
12 seem to mix with what --

13 CHAIRPERSON MILLER: Okay.

14 MR. MENDELBAUM: -- I have
15 experienced.

16 CHAIRPERSON MILLER: Okay. Okay.
17 And have you ever called the Shadow Room to
18 complain that you think it's their patrons
19 that are making noise?

20 MR. MENDELBAUM: No, because I
21 call the police and in 10 minutes they send
22 the patrol car and it's gone.

1 CHAIRPERSON MILLER: So you call
2 the police and in 10 minutes they are gone?

3 MR. MENDELBAUM: I mean, it's when
4 the patrol car came and whatever they did,
5 they made it go away.

6 CHAIRPERSON MILLER: Okay. And
7 did they respond pretty quickly?

8 MR. MENDELBAUM: Who the police?

9 CHAIRPERSON MILLER: The police.

10 MR. MENDELBAUM: 10 minutes or so,
11 yeah.

12 CHAIRPERSON MILLER: Okay. So
13 have you lived in your building for 14 years?

14 MR. MENDELBAUM: No, I have lived
15 in the area.

16 CHAIRPERSON MILLER: Okay.

17 MR. MENDELBAUM: I lived in Foggy
18 Bottom for 14 years. I've only lived in the
19 building for 11 months now.

20 CHAIRPERSON MILLER: Oh, okay.
21 Okay. So out of those 11 months, you have
22 heard some real noise, yelling in the alley,

1 three times?

2 MR. MENDELBAUM: Um-hum.

3 CHAIRPERSON MILLER: Okay. And
4 just --

5 MR. MENDELBAUM: Loud enough where
6 I was like I should call the police. I mean,
7 there's something really going on here.

8 CHAIRPERSON MILLER: Okay. Have
9 you been disturbed in other ways during your
10 11 months in that building?

11 MR. MENDELBAUM: I mean, we hear
12 music sometimes through the doors, but not
13 always. It's hard to pinpoint. I mean, I
14 don't -- I didn't keep a log of it. I didn't
15 know I was supposed to. I didn't know that it
16 was necessary.

17 CHAIRPERSON MILLER: No. I'm just
18 trying to get a feel for --

19 MR. MENDELBAUM: Yeah.

20 CHAIRPERSON MILLER: -- you know,
21 how bad is it, you know. Okay. Anybody else?
22 All right. Any questions on Board questions?

1 Yes?

2 CROSS-EXAMINATION

3 MR. MPRAS: Mr. Mendelbaum, on the
4 nights in question where you heard the noise
5 in November and December of last year that
6 caused you concern, did you know for certain
7 that Shadow Room was open on those nights in
8 question?

9 MR. MENDELBAUM: Yeah, because
10 once it was in conjunction with music. It was
11 like the whole scenario sort of went
12 altogether. That's the thing that made -- led
13 me to believe it, because I heard a lot of
14 loud music and I said there is something, you
15 know, strange going on. And then there was a
16 lot of screaming in the alley and I was like
17 something is probably going on.

18 MR. MPRAS: So did that music come
19 from the venue or could that have come from a
20 vehicle?

21 MR. MENDELBAUM: I don't think
22 there were any vehicles in the alley. It

1 seemed like it came from an open door.

2 MR. MPRAS: Okay. And --

3 MR. MENDELBAUM: I mean, it was
4 rather loud and, I mean, I can't think of any
5 other place it was coming -- there were no
6 like cars in there like playing music in the
7 alley.

8 MR. MPRAS: No further questions.
9 Thank you.

10 MEMBER SILVERSTEIN: Thank you.

11 CHAIRPERSON MILLER: Any redirect?
12 Okay. Thank you very much.

13 MR. MENDELBAUM: Thank you.

14 (Whereupon, witness was excused.)

15 MS. HARMON: Thanks, Steve. Next,
16 I'm going to call Trevor Neve and I'll let you
17 swear him in.

18 CHAIRPERSON MILLER: Yes.
19 Whereupon,

20 TREVOR NEVE
21 was called as a witness for the protestant,
22 and having been first duly sworn, assumed the

1 witness stand and was examined and testified
2 as follows:

3 CHAIRPERSON MILLER: Okay. Thank
4 you.

5 DIRECT EXAMINATION

6 MS. HARMON: Could you state your
7 name and address for the record?

8 MR. NEVE: It's Trevor Neve, N-E-
9 V-E. And the address is 1099 22nd Street,
10 N.W., Washington 20037.

11 MEMBER SILVERSTEIN: Again, sir,
12 your name is?

13 MR. NEVE: It's the West End Place
14 condo. Excuse me?

15 MEMBER SILVERSTEIN: Again, your
16 name is?

17 MR. NEVE: Trevor Neve.

18 MEMBER SILVERSTEIN: Trevor?

19 MR. NEVE: T-R-E-V-O-R, Trevor.
20 The last name is Neve, N-E-V-E.

21 MEMBER SILVERSTEIN: Thank you.

22 MS. HARMON: And how long have you

1 lived at West End Place Condominium?

2 MR. NEVE: Going on 21 years now.

3 MS. HARMON: Okay. And where does
4 your condominium face? Or explain the
5 position of your condo.

6 MR. NEVE: Okay. We are on the
7 fourth floor and we overlook 22nd Street and
8 have a good view of 22nd Street from just
9 beyond K Street in one direction and just
10 beyond L Street in the other direction.

11 MS. HARMON: And have you held a
12 position in the Homeowners Association?

13 MR. NEVE: Yes, I'm currently
14 President of the Homeowners Association.

15 MS. HARMON: And did you hold any
16 past positions?

17 MR. NEVE: I was president a few
18 years ago now and for some reason I'm back on.

19 MS. HARMON: Have any of the
20 residents in your capacity as condominium
21 president expressed concerns about Shadow Room
22 Night Club at 2131 K Street?

1 MR. NEVE: Yeah, they have. Did
2 you want me to talk a bit about that?

3 MS. HARMON: Well, if you can
4 explain. Have there been complaints about
5 noise?

6 MR. NEVE: Yeah, well, at the
7 condo board meetings, we have on the agenda an
8 item of neighborhood issues, one of which is
9 always safety and noise and, invariably, the
10 issue of noise, what we believe the patrons of
11 the nightclub and more increasingly of safety
12 concerns.

13 And as part of this agenda item on
14 the board meeting, we have Florence or Chris
15 read from police reports and they are rather
16 sobering some of the things we hear. And the
17 complaints of owners and residents of things
18 they have actually seen.

19 So I'm representing and passing on
20 complaints for the homeowners and also myself.
21 Some of the things I have seen out of the
22 window. Did you want me to go into the

1 details?

2 MS. HARMON: Yes, if you could
3 just explain some of the things you have seen
4 out the window.

5 MR. NEVE: Yeah.

6 MS. HARMON: Out of your window
7 facing 22nd Street.

8 MR. NEVE: Yeah, it invariably
9 happens between 2:00 and 3:00 in the morning
10 now. When it first opened, that being the
11 club, it was more spread out through the week,
12 but lately it is just on Thursday night.
13 Noise, folks that we believe are coming from
14 the club on the way back to their cars or
15 heading for whatever reason north on 22nd
16 Street.

17 A couple of incidents. One
18 incident I still remember, a young lady spread
19 over the hood of a car is laughing
20 uproariously with the driver and they were
21 having a great time, but not at 2:30 in the
22 morning or so.

1 The other one was a car, it was a
2 convertible, it was in the summer, and it was
3 revving up and the driver was having a
4 conversation with somebody standing outside
5 the car and they were laughing back and forth,
6 revving the engine and finally roared off up
7 22nd Street.

8 We have had an interesting fight
9 between a man and his significant other. She
10 thought that he was cheating on her that
11 night, presumably, or flirting with other
12 women. He protested that wasn't the case and
13 this went on for several minutes. It might
14 have been entertaining, but not at 2:00 or
15 3:00 in the morning. And so it goes on.

16 And these are the sorts of
17 complaints I also hear from the other owners
18 and the renters. That and more complaints
19 recently about security, safety. One example
20 and I have not seen this myself, but somebody
21 said they had guests over who were leaving
22 late early in the morning and they have to

1 hold up in the lobby because one of these
2 instances is ongoing and they didn't feel safe
3 to head out in the middle of it, but it
4 passed. And then they went to their car.

5 Now, I have not seen that myself,
6 but these are the sorts of things brought up
7 at the board meetings, a real concern about
8 safety.

9 MS. HARMON: And why do the
10 residents think that the people who are
11 causing these incidents are coming from Shadow
12 Room Night Club?

13 MR. MPRAS: Objection. Leading.

14 MS. HARMON: I don't think there
15 is a strict adherence to the rules of --

16 CHAIRPERSON MILLER: Well, what is
17 it? What is it? They might not be strict,
18 but you might need to rephrase it.

19 MS. HARMON: Okay.

20 CHAIRPERSON MILLER: What was the
21 question?

22 MR. MPRAS: A leading question.

1 MS. HARMON: What is the basis for
2 any thoughts that these events are connected
3 to Shadow Room Night Club?

4 MR. NEVE: I think the consensus
5 is we are not a great believer in
6 coincidences. It would be a huge coincidence,
7 the noise disturbance just happens to be
8 between 2:00 and 3:00 in the morning, which
9 happens to be the time that the Shadow Room is
10 letting out.

11 It would be a coincidence that the
12 majority of incidents happened Thursday night
13 or early Friday morning in so many weeks of
14 the year.

15 It could be a coincidence that the
16 people making the disturbance seem to come
17 down 22nd Street after having turned right
18 from K Street from the direction of the club.

19 It would be a further coincidence
20 that they were dressed like the patrons we see
21 queuing up at the velvet ropes waiting to get
22 in earlier in the evening. We are just not

1 that much of a believer. That much
2 coincidence we think would be implausible.
3 And we think where else could they come from?

4 We don't think it would e
5 plausible they would be coming from, I think
6 it is, the Look Club way up on K Street. It's
7 about a 15 minute walk. That they would park
8 on 22nd and walk 15 minutes to Look and walk
9 15 minutes back.

10 We don't think it's plausible they
11 would be coming from McFadden's that is across
12 Washington Circle on Pennsylvania. They would
13 have to cross several streets and that
14 wouldn't be convenient at all to depart.

15 Most -- I think everything else is
16 closed around there at that time. The
17 restaurants are certainly closed. They do not
18 look like students. They do not behave like
19 students. We knew with the students when they
20 were roustabouts from the LuLu's Nightclub and
21 this is a different crowd. They are dressed
22 like night clubbers, so for those reasons, we

1 think it's compelling circumstantial evidence
2 that they are, in fact, patrons of the
3 nightclub.

4 MS. HARMON: Okay. I have no
5 further questions.

6 CHAIRPERSON MILLER: Mr. Mpras?

7 CROSS-EXAMINATION

8 MR. MPRAS: Mr. Neve, have you
9 personally approached Shadow Room to engage in
10 some discussion regarding your concerns?

11 MR. NEVE: I have not.

12 MR. MPRAS: Okay. And would you
13 be willing to do that with them in hopes they
14 would, I guess, work together and address your
15 concerns?

16 MR. NEVE: I think it would be
17 good to invite us over, but I think the reason
18 we haven't -- there are a couple of reasons.
19 One is that the board appointed Florence to be
20 our point person and Chris, mainly Florence,
21 who engaged there and it's the feeling of the
22 board and the residents, I think, that we are

1 beyond that stage in getting some of these
2 things that we think are justified.

3 MR. MPRAS: You said based on
4 circumstantial evidence that you believe they
5 are patrons of the club. Have you or anybody
6 in your association observed these people
7 walking down K Street, making a right on 22nd
8 after having departed the club?

9 MR. NEVE: No, I have never
10 followed anybody from the club around the
11 corner to my window.

12 MR. MPRAS: So it's all a matter
13 of having -- had you been outside at any point
14 at that time and, you know, witnessed that?

15 MR. NEVE: No. I just am not
16 usually outside at 2:00 or 3:00 in the
17 morning.

18 MR. MPRAS: In the morning.
19 Understood. Now, you said you don't think
20 they come from Look because it's too far away.
21 Is that correct?

22 MR. NEVE: Correct.

1 MR. MPRAS: Do you know how far
2 away it is from Shadow Room?

3 MR. NEVE: It's about a 15 minute
4 walk. We pass Look on the --

5 MR. MPRAS: It's actually --

6 MR. NEVE: -- way back from our
7 club actually.

8 MR. MPRAS: -- two blocks.

9 MR. NEVE: Yes, the old --

10 MR. MPRAS: It's two blocks. It's
11 19th --

12 CHAIRPERSON MILLER: Okay. You
13 are not supposed to testify, Mr. Mpras. You
14 know that.

15 MR. MPRAS: Yes, ma'am.

16 CHAIRPERSON MILLER: Okay.

17 MR. MPRAS: But for some reason
18 you don't believe that people would walk from
19 there to find parking?

20 MR. NEVE: I think it's
21 implausible.

22 MR. MPRAS: Possible?

1 MR. NEVE: Everything is possible,
2 I suppose, but vanishingly small probability.

3 MR. MPRAS: Now, how many times
4 have you called the police regarding the noise
5 complaints?

6 MR. NEVE: Now, that's a good
7 point. I have been remiss about not doing
8 that and that's a constant thing with our
9 homeowners that we are trying to encourage
10 them to make the calls.

11 MR. MPRAS: I appreciate your
12 thoughts, sir, but I'm just asking how many
13 times have you called.

14 MR. NEVE: None.

15 MR. MPRAS: Thank you. And
16 regarding any other noise issues, have you
17 contacted DCRA to inquire about the noise
18 violation?

19 MR. NEVE: I'm not -- whether to
20 require --

21 MR. MPRAS: The District of
22 Columbia -- have you contacted the District of

1 Columbia Regulatory Authority to complain
2 about any noise issues you may be having?

3 MR. NEVE: I have not personally
4 done that, no.

5 MR. MPRAS: Thank you, sir. No
6 further questions.

7 MR. NEVE: Yes..

8 CHAIRPERSON MILLER: Board
9 questions? Are you -- did you say are you
10 president of your homeowners association?

11 MR. NEVE: I am.

12 CHAIRPERSON MILLER: Does the
13 association keep minutes of its meetings?

14 MR. NEVE: Yes, we do.

15 CHAIRPERSON MILLER: So did you
16 have minutes that reflected the concerns about
17 Shadow Room?

18 MR. NEVE: I believe we have.

19 CHAIRPERSON MILLER: But you
20 didn't bring any today?

21 MR. NEVE: No, did not.

22 CHAIRPERSON MILLER: Okay. So you

1 reported to the police zero times, but do you
2 know how many times you have been disturbed by
3 what you think are Shadow Room patrons?

4 MR. NEVE: Me personally or
5 people?

6 CHAIRPERSON MILLER: You
7 personally.

8 MR. NEVE: Me personally, probably
9 every other month, every few weeks. I'm a
10 sound sleeper. My wife is a different story.
11 She wears earplugs now, but she seems to be
12 disturbed more and I wake up oblivious the
13 next morning and hear her complaints.

14 CHAIRPERSON MILLER: Okay.

15 MR. NEVE: But sometimes it's loud
16 enough even to wake me up.

17 CHAIRPERSON MILLER: Okay.
18 Finally, I just want to comment to what I
19 thought I heard you say, that you were beyond
20 the stage of talking to Shadow Room. And I
21 just want to say that regardless of what
22 happens here, unless we revoke their license,

1 you are going to be neighbors. And so I would
2 encourage that kind of interaction where you
3 actually, you know, if you have a problem --

4 MR. NEVE: That's a fair --

5 CHAIRPERSON MILLER: -- call them
6 and let them see if they can address it.

7 MR. NEVE: That's a fair point.

8 CHAIRPERSON MILLER: Yes, Mr.
9 Silverstein?

10 MEMBER SILVERSTEIN: Mr. Neve, we
11 are all living in a big city and there is
12 always going to be noise. You are next to a
13 traffic circle and there is -- and a hospital
14 with ambulances and there is a lot going on
15 there. Why is this one thing such a stone in
16 your shoe?

17 MR. NEVE: A couple of reasons.
18 Number one is that at that time in the
19 morning, there is very little traffic noise.
20 You get the occasional ambulance. You tend to
21 get used to that for some reason. But it's
22 the voices or the shouts, the laughter that

1 just seems to drag you out of sleep.

2 And I guess the fact that 22nd
3 Street is like an echo chamber.

4 MEMBER SILVERSTEIN: Yes.

5 MR. NEVE: And when somebody is
6 talking, I guess, there is a natural tendency
7 to try to listen as to what is going on. But
8 there is very little traffic noise that time
9 of the morning. You know, we do get the
10 occasional ambulance and police car that, you
11 know, you learn to live with, but this is
12 something else.

13 MEMBER SILVERSTEIN: You are not
14 expecting it to be Sterling or Great Falls or
15 anything like that, are you?

16 MR. NEVE: No. I -- we moved from
17 the suburbs, so we were used to, you know,
18 city life. We like the city life.

19 MEMBER SILVERSTEIN: You are
20 willing to put up with it.

21 MR. NEVE: We like going out to
22 clubs.

1 MEMBER SILVERSTEIN: Well, what
2 nights -- walk me through this. What nights
3 are the worst and what times are the worst?

4 MR. NEVE: Well, it is --

5 MEMBER SILVERSTEIN: Start with
6 Thursday.

7 MR. NEVE: Okay. Yes, Thursday.

8 MEMBER SILVERSTEIN: It seems to
9 be --

10 MR. NEVE: Early Friday morning in
11 fact that it seems to happen. When the club
12 first opened, when things started going
13 downhill it was, I would say, more scattered
14 throughout the week. I didn't realize until
15 today that the club was only open now very few
16 days of the week, that might explain why the
17 incidents on the other days of the week have
18 dropped to zero. But, yes, certainly a
19 Thursday night.

20 Some complaints over the weekend,
21 but for some reason it's that Thursday night
22 that you can expect the incidents. And when

1 I'm around the -- checking mail in the mailbox
2 Friday or over the weekend, it's like post-
3 game replayed, people start talking about how
4 that Thursday night went.

5 MEMBER SILVERSTEIN: Okay.

6 MR. NEVE: It's a topic of concern
7 for the residences.

8 MEMBER SILVERSTEIN: Thank you,
9 Mr. Neve.

10 MR. NEVE: Sure.

11 CHAIRPERSON MILLER: Others? I
12 have one final question then. So what would
13 you like this Board to do?

14 MR. NEVE: Well, I personally
15 think it's the consensus of the board and of
16 the homeowners I have spoken to that we need
17 to get that police detail back onto some
18 arrangement. We think that if there was a
19 policeman on the street, the mere presence
20 would be a deterrent, but that policeman could
21 step in very quickly to stop things before
22 they begin.

1 And Mr. Das himself, I thought,
2 made a good point that when they had a police
3 detail, they would step in quickly just when
4 somebody grabbed someone by the collar. Well,
5 yes, that's how you stop things before they
6 get out of control. And we would like that
7 sort of oversight to continue.

8 And the reason that the police
9 reports have dropped, as Mr. Das said, is
10 because the police detail has been dropped and
11 the reports aren't being filed as many as they
12 used to be.

13 CHAIRPERSON MILLER: Okay. Thank
14 you very much.

15 MR. NEVE: Yes, ma'am.

16 CHAIRPERSON MILLER: Do you have
17 follow-up to that?

18 RE CROSS-EXAMINATION

19 MR. MPRAS: Mr. Neve, as a condo
20 association for your property, you are able to
21 hire police officers directly to work overtime
22 as opposed to ABC establishments, which

1 cannot. Would you be willing to entertain
2 sharing the cost of that with the Shadow Room
3 to help alleviate your problem?

4 MR. NEVE: I can't speak on behalf
5 of all of the homeowners. That would have to
6 be a topic brought up, seconded, etcetera. My
7 suspicion is that the answer would be no, as
8 they would feel like they are paying for
9 someone else's problem to resolve.

10 We didn't generate the patrons and
11 the noise they create. My guess is the owners
12 would not feel very amenable to paying for the
13 resolution.

14 MR. MPRAS: And, sir, another
15 question. You testified that you were having
16 issues with sound all throughout the week when
17 Shadow Room first opened. Is that correct?

18 MR. NEVE: More frequently, yes.
19 Not just on Thursday, but it was scattered
20 more throughout.

21 MR. MPRAS: Mr. Neve, are you
22 aware that when Shadow Room first opened,

1 their license only limited to Friday and
2 Saturday, so you cannot possibly have heard
3 sound throughout the week?

4 MR. NEVE: When they very first
5 opened? No, I wasn't aware of that.

6 MR. MPRAS: Thank you.

7 CHAIRPERSON MILLER: Okay. If you
8 don't have anything, Ms. Harmon, then we are
9 finished?

10 MS. HARMON: No.

11 CHAIRPERSON MILLER: Okay. Thank
12 you very much.

13 MR. NEVE: Certainly.

14 (Whereupon, witness was excused.)

15 MS. HARMON: We'll call Mr. Labas.

16 CHAIRPERSON MILLER: Is that your
17 last witness?

18 MS. HARMON: His name is Chris
19 Labas.

20 CHAIRPERSON MILLER: No. Is this
21 your last witness?

22 MS. HARMON: Just me and I think

1 that's it.

2 CHAIRPERSON MILLER: Okay.

3 MR. MPRAS: How much time?

4 MEMBER JONES: I'll check.

5 Whereupon,

6 CHRIS LABAS

7 was called as a witness for the protestant,
8 and having been first duly sworn, assumed the
9 witness stand and was examined and testified
10 as follows:

11 CHAIRPERSON MILLER: Okay. Thank
12 you.

13 MEMBER JONES: The protestants
14 have 19 minutes. The licensee has 15 minutes.

15 DIRECT EXAMINATION

16 MS. HARMON: Can you state your
17 name and address for the record?

18 MR. LABAS: My name is Chris
19 Labas. My address is 1099 22nd Street, N.W.,
20 Washington, D.C. 20037. It's Apartment No.
21 206.

22 MS. HARMON: And what's your

1 position?

2 MR. LABAS: I'm the Property
3 Manager of West End Place Condominium
4 Association.

5 MS. HARMON: And it is located at
6 the same address, right?

7 MR. LABAS: Same address.

8 MS. HARMON: So you live on-site?

9 MR. LABAS: That's right.

10 MS. HARMON: Great. Describe your
11 duties. You know, as part of your duties as
12 the property manager, are you familiar with
13 the neighborhood?

14 MR. LABAS: Yes, I am.

15 MS. HARMON: And I will go ahead
16 and give you a copy -- we will use the map
17 that was mentioned.

18 COURT REPORTER: Ms. Harmon, if
19 you could stand by the mike.

20 CHAIRPERSON MILLER: Ms. Harmon,
21 you need to be by a mike to be picked up --

22 MS. HARMON: Oh, okay.

1 CHAIRPERSON MILLER: -- by the
2 court reporter.

3 MS. HARMON: Sorry, sorry. Well,
4 let me go over here. Can you hear me now?
5 Okay. Great. Okay. So, Mr. Labas, tell us
6 about the residential -- the residences,
7 residential buildings nearby.

8 MR. LABAS: We have -- we live in
9 the residential section of the neighborhood.
10 Our building, obviously, located at 1099 and
11 then directly --

12 MS. HARMON: Am I pointing to it?

13 MR. LABAS: Yeah, down a little
14 bit right there. And then directly west of
15 that is Schneider Triangle which is full of
16 townhouses that are either whole houses --
17 there is one embassy and one doctor's office,
18 but the rest are houses, some multi-family.

19 And then going north across the
20 street is the Savoy, which is a residential
21 building. Directly across the street there is
22 the Carriage House and then the residences at

1 the Ritz Carlton and then that is a building
2 22 West, I believe, which is 1122 22nd Street.

3 MS. HARMON: And is there an
4 apartment building on the block?

5 MR. LABAS: There is. There is a
6 rental building there on L Street, The Winston
7 House.

8 MS. HARMON: Okay. Great. Is the
9 Look Nightclub located near any residences to
10 that extent? Okay.

11 MR. LABAS: No.

12 MS. HARMON: As the Shadow Room
13 is. Okay.

14 MR. LABAS: Not at all.

15 MS. HARMON: Are you familiar with
16 a Thursday night event at Shadow Room that has
17 been recurring for years called Urban Night?

18 MR. LABAS: I am.

19 MS. HARMON: Okay. And how long
20 have you had -- have you any complaints about
21 that?

22 MR. LABAS: Yes.

1 MS. HARMON: And how --

2 MR. LABAS: Often.

3 MS. HARMON: -- long have you had
4 the complaints?

5 MR. LABAS: Oh, maybe over the
6 course of six years. Six to seven years.

7 MS. HARMON: And did you have
8 complaints about noise to this extent prior to
9 the opening of this club?

10 MR. LABAS: No.

11 MS. HARMON: Okay. Can you just
12 summarize real quickly for the Board some of
13 the types of complaints you get as condominium
14 manager from residents?

15 MR. LABAS: Regarding the club or
16 just noise in the neighborhood?

17 MS. HARMON: Well, from club --
18 what they perceive to be of club nature.

19 MR. LABAS: Yes.

20 MS. HARMON: And why they perceive
21 it to be club nature.

22 MR. MPRAS: Madam Chair, isn't

1 this -- what's different from this testimony
2 than from what Mr. Neve just testified to?

3 CHAIRPERSON MILLER: Well, first I
4 will let her answer that before --

5 MS. HARMON: Obviously, he is the
6 condominium manager. Mr. Neve works all day.
7 He works in the building and also lives there.
8 So he would have -- and his apartment also
9 faces 22nd Street, so he would have
10 experiences Mr. Neve would not have in dealing
11 with residents. He is a paid employee. Mr.
12 Neve isn't.

13 CHAIRPERSON MILLER: Do you get
14 written complaints? Do you have written or is
15 this all oral?

16 MR. LABAS: I do. Yeah, I get
17 written and oral complaints from people. Some
18 from emails and others just from speaking to
19 people, especially when it has been -- when
20 the events have been particular loud.

21 CHAIRPERSON MILLER: Okay.

22 MR. LABAS: Noise events, people

1 will come to my office and did you hear that,
2 you know, last night?

3 CHAIRPERSON MILLER: Okay.

4 MR. LABAS: Yeah.

5 CHAIRPERSON MILLER: I'm going to
6 give her a little leeway because it is also a
7 factor how many people might be disturbed, so
8 he -- you hear from different people, correct?

9 MS. HARMON: Were they of the same
10 character as those conveyed by Mr. Neve?

11 MR. LABAS: Mostly, yes.

12 MS. HARMON: Okay. Okay. Did you
13 have occasion to be awakened and take a video?

14 MR. LABAS: I did.

15 MS. HARMON: Okay. Could you tell
16 us about that?

17 MR. LABAS: Yeah. It was on the
18 morning of the 5th of July. I got up and it
19 was just -- it was really loud outside. And
20 I went out. I just -- I looked out of my
21 bedroom window to see what was going on and I
22 could see the scuffle coming down from around

1 K Street this way. They made a right going
2 north onto 22nd Street and it was a group of
3 people that were just yelling and screaming.

4 And so, you know, I thought that
5 it would be great if I could film this, so I
6 grabbed my iPhone and I got it. And I went
7 out onto my balcony, because it was getting
8 loud as it was approaching. And you know, it
9 was these people that I know were coming from
10 the nightclub. I saw one of them earlier when
11 I was coming home leaving her car and I could
12 see her get out of her car and walk up 22nd,
13 because I was coming from a friend's building
14 from watching the fireworks.

15 And they are walking up and I
16 could see her. And she is among these people
17 in the video that I shot.

18 MS. HARMON: And why did you think
19 these people came from Shadow Room.

20 MR. LABAS: That's why.

21 MS. HARMON: Oh.

22 MR. LABAS: Because I saw her

1 going there to begin with, one of them.

2 MS. HARMON: Okay. Okay. I'm
3 going to go ahead and play the video.

4 MR. LABAS: It's kind of -- it's
5 sideways. It didn't format properly.

6 (Video played.)

7 MS. HARMON: Okay.

8 (Video stopped.)

9 MS. HARMON: Okay. Is that a true
10 and correct copy? Does that accurately
11 represent the events you videoed on the early
12 morning hours of July 5th?

13 MR. LABAS: Yes.

14 MS. HARMON: Okay. Well, what was
15 the next video you took?

16 MR. LABAS: The next video was
17 some moments later when the fight -- this same
18 fight was going on, it appeared as it
19 continued and heated up down towards the end
20 of the block at 22nd and L.

21 MS. HARMON: Do you want to go
22 ahead and play that?

1 MR. LABAS: Yeah.

2 (Video played.)

3 MS. HARMON: I think that's
4 probably enough.

5 MR. LABAS: Okay.

6 (Video stopped.)

7 MS. HARMON: So but that was the
8 same night?

9 MR. LABAS: Yeah.

10 MS. HARMON: July 5th. Now, why do
11 you think these disturbances were caused by
12 patrons of Shadow Room?

13 MR. LABAS: Oh, well, I saw -- one
14 of them clearly was in the -- the girl in the
15 blue shorts was -- I saw her leave her car and
16 go stand in line by the Shadow Room.

17 MS. HARMON: So you saw her in
18 line for Shadow?

19 MR. LABAS: Earlier that night,
20 yeah.

21 MS. HARMON: Okay. What are some
22 of the other problems you have had complaints

1 about?

2 MR. LABAS: Oh, just everything.
3 People on Thursday nights and not just
4 necessarily Thursday nights, but mostly on
5 Thursday nights. Public urination,
6 defecation. There are people who have
7 actually engaged in some kind of sexual
8 activity on the hood of a car out in the front
9 there and they were stopped by a rat running
10 over the guy's foot and then continued.

11 I mean, just loud yelling and
12 screaming and fighting and revving of car
13 engines, cars, you know, zooming down the
14 street in the middle of the night. And this
15 parade of cars --

16 MS. HARMON: And this is --

17 MR. LABAS: -- that goes around
18 the block.

19 MS. HARMON: -- regularly occurs
20 on the early morning hours?

21 MR. LABAS: Yes.

22 MS. HARMON: Friday after a

1 Thursday night?

2 MR. LABAS: Yes.

3 MS. HARMON: Urban Night event?

4 MR. LABAS: Yes.

5 MS. HARMON: Okay. I have no
6 further questions.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER SILVERSTEIN: Mr. Mpras?

9 CHAIRPERSON MILLER: Mr. Mpras?

10 CROSS-EXAMINATION

11 MR. MPRAS: Mr. Labas, exactly
12 where were these people when you took the
13 videotape?

14 MR. LABAS: Where exactly were
15 they?

16 MR. MPRAS: Yes.

17 MR. LABAS: Right directly
18 underneath my bedroom -- out -- directly
19 underneath my balcony at my living room, 1099
20 22nd Street, in the 1000 Block of 22nd Street.

21 MR. MPRAS: Okay.

22 MR. LABAS: In the middle.

1 MR. MPRAS: And what was the date
2 and time this happened again, please?

3 MR. LABAS: 5 July 2013, roughly
4 2:36 a.m. until about 3:00, maybe a little bit
5 past 3:00 a.m.

6 MR. MPRAS: Okay.

7 MR. LABAS: Friday.

8 MR. MPRAS: And at what time did
9 you -- you said you saw this female that you
10 were able to later identify park her car and
11 walk towards the Shadow Room?

12 MR. LABAS: Um-hum.

13 MR. MPRAS: Okay. Did you see her
14 enter the Shadow Room?

15 MR. LABAS: I didn't, but I got --
16 I saw her go to stand in front of it.

17 MR. MPRAS: So where were you when
18 you observed this?

19 MR. LABAS: I was coming back from
20 a party in the West End, but further west. So
21 I was probably around -- there is a traffic
22 bridge that goes off. And I don't know, I

1 think I had gone to a store on Pennsylvania
2 Avenue to get cigarettes or something on my
3 way home. And so I came through Washington
4 Circle and then came down that way.

5 MR. MPRAS: By foot or by car?

6 MR. LABAS: I'm sorry?

7 MR. MPRAS: By car or by foot?

8 MR. LABAS: I was by foot,
9 walking.

10 MR. MPRAS: Can you tell me what
11 this female was wearing?

12 MR. LABAS: I can remember those
13 blue shorts, that's it.

14 MR. MPRAS: You remember blue
15 shorts.

16 MR. LABAS: Um-hum.

17 MR. MPRAS: And at approximately
18 what time did you see her park her car?

19 MR. LABAS: I don't know. I don't
20 know what time that the party let out, but it
21 was -- I don't know. It's difficult for me to
22 say. I can't recall. But it was earlier. It

1 was probably maybe -- it could have been
2 anywhere between 10:30 to midnight or maybe a
3 little bit past midnight. Anywhere between
4 then or later.

5 MR. MPRAS: Now, being that the
6 night before was the 4th of July and yourself
7 were at a party, you don't think that every
8 venue in the area was busy that evening?

9 MR. LABAS: I don't know. I
10 didn't go to every venue in the area to check
11 and see what kind of party they were having.

12 CHAIRPERSON MILLER: We didn't
13 hear that. Did you --

14 MR. LABAS: Oh, I'm sorry. I
15 didn't go to every other venue in the area to
16 check and see what kind of events they were
17 having. So I don't know.

18 CHAIRPERSON MILLER: Okay.

19 MR. LABAS: I don't know was my
20 answer to Mr. Mpras.

21 CHAIRPERSON MILLER: Okay.

22 MR. MPRAS: And you said you saw

1 her when you were leaving the party, correct?

2 MR. LABAS: No. I saw her as I was
3 coming home.

4 MR. MPRAS: From --

5 MR. LABAS: I had -- I was coming
6 from a fireworks viewing.

7 MR. MPRAS: Because you were
8 coming from -- okay.

9 MR. LABAS: Right.

10 MR. MPRAS: Did you consume
11 alcohol that evening?

12 MR. LABAS: Probably, a beer or
13 two, yeah, but I had to work, so, no, not
14 much. I wasn't drunk.

15 MR. MPRAS: When did you have to
16 work?

17 MR. LABAS: What, where?

18 MR. MPRAS: When?

19 MR. LABAS: When? At 8:00. I had
20 a contractor meeting at 8:00.

21 MR. MPRAS: Okay. Thank you very
22 much, Mr. Labas.

1 MR. LABAS: You're welcome.

2 CHAIRPERSON MILLER: Board
3 questions? I just have one. Did you call the
4 police about that video?

5 MR. LABAS: No, I didn't.
6 Specifically so I could record the video.

7 CHAIRPERSON MILLER: What?

8 MR. LABAS: Because I wanted to
9 bring it here to show you what kind of
10 activity happens and that's why I didn't call.

11 CHAIRPERSON MILLER: You mean it
12 was over when you -- by the time you would
13 have called, it was over?

14 MR. LABAS: Oh, well, you know,
15 there have been times when I have called the
16 police and for whatever reason, they have not
17 shown up. Either they have either not shown
18 up or responded or said they were going to
19 send someone or showed up very late. And I
20 figured if I called them, that, yes, it was
21 July 4th, you know, it wouldn't have made any
22 difference and plus, I wanted to film that to

1 show you the typical activity that we get on
2 the street on Thursday night.

3 CHAIRPERSON MILLER: So you are
4 saying that was typical?

5 MR. LABAS: Yeah. Yeah, there has
6 been stuff worse than that. There have been
7 whole block fights before over the course of
8 this club being open.

9 CHAIRPERSON MILLER: Okay. I'm
10 sorry, this is more than one question, but
11 typical? Like how frequent?

12 MR. LABAS: I would say maybe
13 twice to three times a month, you know, which
14 is three Thursdays out of four during the
15 warmer months. And then maybe two Thursdays
16 out of four when it is cold. And possibly not
17 as prolonged as this one during the colder
18 months.

19 CHAIRPERSON MILLER: Okay. And
20 mainly Thursdays?

21 MR. LABAS: Right.

22 CHAIRPERSON MILLER: Okay. All

1 right. Anybody else? Any questions on Board
2 questions?

3 MR. MPRAS: Yes, ma'am.

4 RECROSS-EXAMINATION

5 MR. MPRAS: You mentioned the
6 police. In your video, Mr. Labas, did two
7 police vehicles drive by?

8 MR. LABAS: I believe so. One was
9 definitely a vehicle marked police and the
10 second one appeared to be a police vehicle.

11 MR. MPRAS: And did they take any
12 action?

13 MR. LABAS: They did not.

14 MR. MPRAS: Thank you.

15 MR. LABAS: Yep.

16 MS. HARMON: Can I just redirect
17 real quickly?

18 CHAIRPERSON MILLER: Um-hum.
19 Okay.

20 REDIRECT EXAMINATION

21 MS. HARMON: Mr. Labas, was the
22 two videos we showed, were they accurate

1 representations of what you saw that evening?

2 MR. LABAS: Yes.

3 MS. HARMON: Okay. Well, I'm
4 going to move to put the video, here I'll give
5 you a copy, into evidence if the -- as
6 Protestant's Exhibit 5.

7 CHAIRPERSON MILLER: 5? Is that
8 what you said?

9 MS. HARMON: Yeah, I think it's 5.
10 I think it's No. 5. Right, Hanna?

11 MR. MPRAS: Ma'am, I have no
12 objection so long as it's admitted as evidence
13 of what Mr. Labas saw in front of his
14 residence on it.

15 MS. HARMON: Yes.

16 CHAIRPERSON MILLER: Okay.

17 MS. HARMON: That's fine.

18 MR. MPRAS: Not as to where the
19 individuals came from.

20 MS. HARMON: Well, his testimony
21 will go to that.

22 CHAIRPERSON MILLER: You're right.

1 Whatever. It is what it is.

2 MS. HARMON: It is what it is.

3 CHAIRPERSON MILLER: What was
4 seen, right, yeah. Okay.

5 MS. HARMON: Should I give you
6 this?

7 CHAIRPERSON MILLER: So if you --
8 I -- yeah. We have lost our staff here, but,
9 okay, I'll mark that as Protestant's Exhibit
10 No. 5.

11 (Whereupon, the document was
12 marked for identification as
13 Protestant Exhibit 5 and was
14 received in evidence.)

15 CHAIRPERSON MILLER: Yes, of
16 course. Thank you. Okay.

17 MS. HARMON: I have no further
18 questions.

19 MR. MPRAS: I have one more.

20 CHAIRPERSON MILLER: Based on
21 redirect?

22 MR. MPRAS: Yes.

1 RE-RECROSS-EXAMINATION

2 MR. MPRAS: And, Mr. Labas, is
3 there any indicia on the videos as to the date
4 and time that it was taken?

5 MR. LABAS: I believe so. I would
6 have to look at the disk.

7 MR. MPRAS: I didn't see it on --
8 I did not see it on the video. Is there any--

9 MR. LABAS: But I mean, when you
10 go to insert the disk into the --

11 MS. HARMON: It's right there.

12 MR. LABAS: Is it there? Yes,
13 2:36.

14 MR. MPRAS: On the actual video
15 itself, not the computer modification, which
16 can be changed.

17 MR. LABAS: Oh, no. I don't know.
18 My iPhone doesn't --

19 MR. MPRAS: No?

20 MR. LABAS: That's just the date
21 and time on the file.

22 MR. MPRAS: Yes.

1 MR. LABAS: I mean, that's there.

2 MEMBER ALBERTI: Well, how would
3 that have gotten there, that date and time?

4 MR. LABAS: I'm sorry?

5 MEMBER ALBERTI: How would that
6 date and time have gotten --

7 MR. LABAS: Oh, when the -- when I
8 recorded with my iPhone, you know, it date
9 stamps it and I guess time. It puts the time
10 and date stamp on it.

11 MR. MPRAS: Most modern equipment
12 do that.

13 MR. LABAS: So that when it is
14 transferred --

15 MEMBER ALBERTI: So that is the
16 time?

17 MR. LABAS: Yeah, it's done
18 automatically.

19 MR. MPRAS: It's not on this. As
20 it was on the previous one, which the
21 Investigator --

22 MEMBER ALBERTI: It's not on the

1 video, but it's on the file name.

2 MR. LABAS: Yes, right. It's not
3 that --

4 MR. MPRAS: It's whatever you type
5 in.

6 CHAIRPERSON MILLER: Oh.

7 MEMBER ALBERTI: See, that's what
8 I'm asking him.

9 MR. LABAS: It says July 4th Shadow
10 Room incident. The time and the date were
11 done automatically.

12 MEMBER ALBERTI: But you did not
13 enter in -- my question is you did not enter
14 in time and date on these files?

15 MR. LABAS: No, no.

16 MEMBER ALBERTI: Okay.

17 MR. LABAS: I did not.

18 MEMBER ALBERTI: Very good. Thank
19 you. That's all I need to know. Mr. Jones
20 has a question.

21 CHAIRPERSON MILLER: Okay.

22 MEMBER JONES: Yes. Just to

1 confirm, you are under oath, correct?

2 MR. LABAS: Yes.

3 MEMBER JONES: Did you alter the
4 video in any way?

5 MR. LABAS: No.

6 MEMBER JONES: Did you alter the
7 metadata associated with the video file in any
8 way?

9 MR. LABAS: No.

10 MEMBER JONES: Okay.

11 MR. LABAS: No.

12 MEMBER JONES: Thank you.

13 MEMBER RODRIGUEZ: Madam Chair?

14 CHAIRPERSON MILLER: And, Mr.
15 Rodriguez?

16 MEMBER RODRIGUEZ: Yes. Mr.
17 Labas, have you -- you witnessed many of these
18 events, right?

19 MR. LABAS: Yes.

20 MEMBER RODRIGUEZ: Have you seen
21 anybody get hurt?

22 MR. LABAS: Well, you know, I

1 mean, I have seen people hit each other.

2 MEMBER RODRIGUEZ: Right.

3 MR. LABAS: You know, but not
4 where they have needed medical assistance or
5 at least if they did, they didn't call for it
6 and they got back up and continued fighting.

7 Now, there have been some events
8 that have been really big. I mean, that have
9 taken up the whole block with more people than
10 this.

11 MEMBER RODRIGUEZ: Um-hum.

12 MR. LABAS: You know, punching and
13 kicking. But what I'm worried about and what
14 I think a lot of the people that -- not just
15 in my building, but I have gotten complaints
16 and expressions of concern from people who
17 live in the townhouses across the street, is
18 that this violence is getting progressively
19 worse and that it's going to escalate into
20 something worse.

21 MEMBER RODRIGUEZ: Okay. Thank
22 you, sir.

1 MR. LABAS: Possibly involving
2 guns.

3 MEMBER RODRIGUEZ: Thank you.

4 MR. LABAS: Yep.

5 CHAIRPERSON MILLER: Okay. You
6 can be excused.

7 MR. LABAS: Okay.

8 CHAIRPERSON MILLER: Thank you
9 very much.

10 MR. LABAS: Thank you.

11 (Whereupon, witness was excused.)

12 CHAIRPERSON MILLER: It is now
13 7:00.

14 MS. HARMON: And how many minutes
15 do I have left?

16 MEMBER SILVERSTEIN: How much
17 time?

18 MEMBER JONES: One moment, please.
19 Protestants have 7 minutes remaining.
20 Licensee has 12.

21 MS. HARMON: Okay. Great. And
22 that doesn't include closing?

1 MEMBER JONES: That's correct.

2 MS. HARMON: Okay. Great.

3 CHAIRPERSON MILLER: Don't feel
4 like you have to use it all.

5 MS. HARMON: Okay. I'll be brief.
6 I promise.

7 MEMBER SILVERSTEIN: You don't
8 have any choice.

9 MS. HARMON: Okay. Well, the best
10 went first. The best is not last.
11 Whereupon,

12 FLORENCE HARMON
13 was called as a witness for the protestant,
14 and having been first duly sworn, assumed the
15 witness stand and was examined and testified
16 as follows:

17 CHAIRPERSON MILLER: Thank you.

18 MS. HARMON: Okay.

19 DIRECT EXAMINATION

20 MS. HARMON: I guess I'll direct
21 examine myself here. I'm Florence Harmon.
22 I'm an ANC Commissioner with ANC-2A. I just

1 want to address a couple of things that were
2 brought up by the Board.

3 We have actually --

4 MR. MPRAS: Ma'am, I would like to
5 object. This would be closing. It's a
6 monologue. I mean --

7 CHAIRPERSON MILLER: Is it -- are
8 you going to be giving us evidence?

9 MS. HARMON: Your rules require
10 that only one person handle the hearings.

11 CHAIRPERSON MILLER: Right.

12 MS. HARMON: So I don't know how
13 else to handle this.

14 CHAIRPERSON MILLER: No, that's
15 fine. We have had people testify. That's
16 fine. My question is are you going to be
17 giving us, you know, testimony, evidence or
18 are you going to give an argument?

19 MS. HARMON: Yes, I'm going to be
20 giving evidence.

21 CHAIRPERSON MILLER: Okay. Then
22 you can proceed.

1 MS. HARMON: And the first point
2 of evidence I give is we have met with Mr. Das
3 and Mr. Acott, you know, numerous times. You
4 know, Mr. Neve was not able to attend, but
5 numerous other residents. Mr. Acott has come
6 over to our lobby. We have met with
7 residents. There is a dialogue.

8 But the problem is when it comes
9 down to really addressing the problems, here,
10 they just don't want to pay the money for a
11 detail. And we see that as really the only
12 way to resolve this situation. So we have had
13 numerous meetings with Mr. Acott. With not
14 just me present, but, you know, many -- like
15 I would say 5 to 10 other residents.

16 We have also -- at ANC meetings,
17 there has also been a dialogue. We have a
18 voluntary agreement with Shadow Room. This
19 would be my second point of evidence and I'll
20 actually mark this as an exhibit. I think it
21 is Protestant's Exhibit 6. I'll give -- I
22 think you -- it's on record. You all would

1 have a copy of it.

2 CHAIRPERSON MILLER: Right. That
3 is in our public record, so I don't believe
4 there would be any objection to this.

5 MS. HARMON: Okay.

6 CHAIRPERSON MILLER: So this is
7 Exhibit 6 admitted.

8 (Whereupon, the document was
9 marked for identification as
10 Protestant Exhibit 6 and was
11 received in evidence.)

12 CHAIRPERSON MILLER: Okay.

13 MS. HARMON: But my second point
14 of evidence is that -- this voluntary
15 agreement. You know, we did have for a short
16 period when they first opened, when they had
17 100 or more patrons, they were supposed to
18 have an ABRA-recognized certified security
19 detail, which they do have.

20 But they -- and the voluntary
21 agreement also goes on to say "Shadow Room
22 will make best efforts to monitor its front

1 area, side and back allies and the corner of
2 K Street and 22nd Street." And that is not
3 happening.

4 You wouldn't have seen the scene
5 you just saw on Mr. Labas' video if that
6 monitoring had been taking place.

7 The third point of evidence I
8 wanted to make is we not only had Lieutenant
9 Craig, but we have had numerous other -- well,
10 we had other MPD Officers who have testified
11 in the numerous protest proceedings that a
12 police detail would be advantageous to the
13 neighborhood.

14 And Mr. Das even testified, and
15 that's in the brief, the little brief, you
16 know, hearing brief I filed, that the reason
17 he -- at that point in time, it was back in
18 2010, that he used a detail was because his
19 security officers -- you have heard the
20 testimony about going onto public space. You
21 know, he has liability.

22 So the solution here seems to be

1 that -- a police detail, because he says his
2 police -- his security detail can't, you know,
3 leave the immediate location where the
4 entrance to the nightclub is.

5 So I assume this is in the public
6 record, but I made copies, and so I guess this
7 would be Exhibit 7. This is a copy of Mr.
8 Das' testimony and Lieutenant Craig's
9 testimony.

10 COURT REPORTER: Stand by the
11 mike.

12 MS. HARMON: Oh.

13 CHAIRPERSON MILLER: Yeah.

14 MS. HARMON: So --

15 MR. MPRAS: Ma'am, this is a
16 transcript from a -- something -- nothing
17 having to do with the renewal of this license.
18 In fact, it's for a totally different license
19 altogether.

20 MS. HARMON: Well, that brings me
21 to the fifth one.

22 CHAIRPERSON MILLER: What's the

1 relevance of this transcript?

2 MS. HARMON: Yes.

3 CHAIRPERSON MILLER: It's in the
4 public record.

5 MS. HARMON: It is testimony --

6 CHAIRPERSON MILLER: We don't even
7 have to admit it. But go ahead.

8 MS. HARMON: Yeah. It was
9 testimony and I would move to admit this
10 exhibit and the last exhibit. But it was
11 testimony about this new operation of Shadow
12 Room, that's what they were testifying to.

13 CHAIRPERSON MILLER: There is
14 testimony in the transcript about Shadow Room?

15 MS. HARMON: Yes. Oh, yes. And
16 because when Mr. Das testified that he
17 couldn't use the basement and his license only
18 covered the first floor, we have been up to
19 the Court of Appeals twice litigating the fact
20 that his license covers -- his Shadow Room
21 license covers the first floor and basement.

22 So it's just -- I'm sure if you

1 check your records, it's absolutely not true
2 that his license is only covering the first
3 floor. The problem was it was a duplicative
4 proceeding where they were trying to double
5 their capacity and they filed for a second
6 license for this Shank 21 and that -- you
7 know, we thought there were enough problems
8 where the capacity didn't need to be
9 essentially doubled.

10 MEMBER ALBERTI: Ms. Miller, I
11 think -- have you ruled on the objection?

12 CHAIRPERSON MILLER: No, she
13 hasn't asked to move it yet. Have you?

14 MEMBER ALBERTI: But there is an
15 objection on the floor.

16 CHAIRPERSON MILLER: Oh, is there
17 an objection on the floor? Because -- have
18 you asked to move it into evidence?

19 MR. MPRAS: Actually, she did.

20 CHAIRPERSON MILLER: And you have
21 objected?

22 MEMBER ALBERTI: Yeah.

1 MR. MPRAS: I did.

2 CHAIRPERSON MILLER: Because?

3 MR. MPRAS: It's not relevant to
4 this proceeding. The -- I don't think it's
5 relative to the protestant issues and it's not
6 for this establishment. This is a transcript
7 for a totally different venue altogether.

8 CHAIRPERSON MILLER: Okay. So I
9 haven't read this transcript and I don't
10 really know what is in it.

11 MS. HARMON: Okay.

12 CHAIRPERSON MILLER: So I think
13 I'm going to -- and I don't even have to give
14 it an exhibit number, but I think I will for
15 the clean -- to keep this clean. This is your
16 proposed Exhibit No. 7. It may be irrelevant.
17 It may be relevant because it has something to
18 shed. I don't even know -- that's right. I
19 don't know what the point of this is. Maybe
20 you can say, but it is in the public record in
21 any event that the Board can look at it.

22 MS. HARMON: I think you could

1 probably take judicial notice of it.

2 CHAIRPERSON MILLER: Right.

3 MS. HARMON: Because it's in the
4 ABRA files.

5 CHAIRPERSON MILLER: Let's do
6 that. Let's -- because I really have no idea
7 what is in this.

8 MS. HARMON: Okay.

9 CHAIRPERSON MILLER: So I don't
10 know really.

11 MS. HARMON: So is Exhibit No. 6--

12 CHAIRPERSON MILLER: We won't
13 admit it as an exhibit, but we can take
14 judicial notice of it.

15 MS. HARMON: Okay. Right, right.

16 CHAIRPERSON MILLER: Okay.

17 MS. HARMON: So I'm trying to keep
18 track of my exhibits.

19 CHAIRPERSON MILLER: So that would
20 have been 7, I believe.

21 MS. HARMON: Okay, yes. And 6 was
22 the voluntary agreement.

1 CHAIRPERSON MILLER: Right.

2 MS. HARMON: Okay.

3 CHAIRPERSON MILLER: Which was
4 admitted.

5 MR. MPRAS: I'm sorry?

6 MS. HARMON: So 7 was moved, but
7 not admitted.

8 CHAIRPERSON MILLER: No, this was
9 admitted.

10 MS. HARMON: Oh, it was admitted?
11 Okay. Great.

12 CHAIRPERSON MILLER: You didn't
13 hear that, you can hear it now. But there was
14 no objection to the settlement agreement and
15 that certainly is something the Board --

16 MS. HARMON: Okay.

17 CHAIRPERSON MILLER: -- would look
18 at. Okay.

19 MR. MPRAS: Part of the file, 7?

20 CHAIRPERSON MILLER: Right. Okay.

21 MS. HARMON: The next point of
22 evidence I would make is they had a new

1 landlord come in midway fairly recently. So
2 some of -- I don't think Mr. Das on the
3 security camera has probably explored it with
4 the present landlord. And we would be happy,
5 the ANC would be happy to facilitate that
6 discussion.

7 The -- he mentioned a corporate
8 entity I wasn't familiar with, but I have
9 talked to Kim Russo and GW Hospital. She did
10 tell me they have bought the building. They
11 own the building and it may be a separate
12 corporate entity from GW Hospital and that may
13 be the reason there is a different corporate
14 name.

15 But we have a relationship with
16 this landlord and I'm sure the ANC could help
17 facilitate the installation of a security
18 camera. And one of the Board Members had
19 mentioned some technology, which we could
20 pursue.

21 So that's all I have, at this
22 point, I think. I don't want to be too

1 duplicative of the other witnesses.

2 CHAIRPERSON MILLER: Okay. Cross?

3 MR. MPRAS: No, ma'am.

4 CHAIRPERSON MILLER: Okay. Board
5 questions? Okay. Thank you.

6 MS. HARMON: Thank you. Oh, one
7 additional point. I apologize. But I did
8 have copies of the AKA-555 decision that is
9 cited in the brief and the other Coyote Ugly
10 order, one the Board did impose a police
11 detail, one was a voluntary agreement. So
12 there is a precedent.

13 CHAIRPERSON MILLER: Okay. Those
14 are our Board Orders?

15 MS. HARMON: Yes, ma'am.

16 CHAIRPERSON MILLER: Okay. So
17 they are in the public record, too.

18 MS. HARMON: They are also listed
19 in the brief that I filed.

20 CHAIRPERSON MILLER: Okay. Okay.
21 So we can take judicial notice of those.

22 MS. HARMON: Okay.

1 CHAIRPERSON MILLER: If you have
2 extra copies, you are welcome to give them to
3 us for our convenience, but if you don't,
4 that's okay. We will look them up.

5 MS. HARMON: I have these two
6 copies for you all, I'll be happy to give.

7 CHAIRPERSON MILLER: Okay. Thank
8 you. Okay. Are we ready? Oh, you have a
9 rebuttal witness?

10 MR. MPRAS: I'm sorry?

11 CHAIRPERSON MILLER: Do you have a
12 rebuttal witness?

13 MR. MPRAS: No, ma'am.

14 CHAIRPERSON MILLER: You're done?

15 MR. MPRAS: Ma'am, we rest.

16 MEMBER SILVERSTEIN: You're a
17 glutton for punishment, aren't you?

18 CHAIRPERSON MILLER: Gosh. Just
19 checking. Okay. Are we ready for closing?
20 Okay.

21 MS. HARMON: If I could just have
22 one minute to find my notes?

1 CHAIRPERSON MILLER: Yes, all
2 right.

3 MR. MPRAS: Okay. Are we ready?

4 MS. HARMON: Okay. How many
5 minutes?

6 CHAIRPERSON MILLER: You can have
7 up to five, but I really don't think you
8 should necessarily --

9 MS. HARMON: I agree.

10 MEMBER JONES: Five minutes, no
11 more.

12 MEMBER ALBERTI: Doesn't Mr. Mpras
13 go first?

14 MS. HARMON: Oh, does he go first?

15 CHAIRPERSON MILLER: Yes, he goes
16 first.

17 MS. HARMON: Oh, sorry.

18 CHAIRPERSON MILLER: Yes.
19 Sometimes less is more, you know. Okay. Are
20 you ready, Mr. Mpras?

21 MR. MPRAS: I am. Thank you.

22 CHAIRPERSON MILLER: Okay.

1 MR. MPRAS: There has been a lot
2 of testimony here today about the Shadow Room
3 operation. The only testimony though that is
4 truly unbiased is that of the ABRA
5 Investigator, John Suero. The only individual
6 who does not have a stake in the outcome of
7 this matter.

8 Per the observations and
9 investigative efforts of Investigator Suero
10 and the other ABRA Investigators, they have
11 confirmed in writing that Shadow Room is not
12 responsible for any of the alleged violations.
13 And Shadow Room's ABRA investigative history
14 speaks to that.

15 They have done nothing but
16 improve. In 2010, there were seven ABRA
17 issues that were addressed and they were all
18 NFA'd. In 2011, there were five also NFA'd.
19 2012, there were five all NFA'd with the
20 exception of one warning letter. And in 2013,
21 there were zero.

22 The testimony of the protestant's

1 witnesses does not match the ABRA
2 investigation in any way, shape or form. The
3 testimony in the video provided by Derek
4 Crumbley, a private investigator, with no law
5 enforcement experience whatsoever or
6 experience in dealing with nightclubs, was
7 that of a paid advocate who was paid by Ms.
8 Harmon and the condo association to come and
9 offer testimony beneficial to their case.

10 Now, the Shadow Room has been
11 under attack for not having a police voluntary
12 detail. Their record indicates that they do
13 not need one every night. On nights where
14 they do have a special event and they are
15 busy, as was confirmed by Lieutenant Craig,
16 they do employ reimbursable details.

17 Now, the protestants complain and
18 complain about noise, but yet, they don't go
19 directly to the Shadow Room and ask for any
20 assistance or inform them directly of their
21 complaints. In fact, they don't even call the
22 police most of the time.

1 I mean, absent these small steps
2 on their part, the venue can't be held
3 responsible for what it can't control and
4 doesn't know about.

5 Now, these are very responsible
6 operators and they have proved as such as
7 indicated in Investigator Suero's report.
8 There have been no direct evidence or proof of
9 any type linking the destructive behavior of
10 ordinary people walking 22nd Street that they
11 came from the Shadow Room at all.

12 I urge the Board based on the
13 evidence presented today and the evidence of
14 their own investigative team to approve this
15 license renewal as is. Thank you.

16 CHAIRPERSON MILLER: Thank you.

17 MS. HARMON: I'll make this real
18 brief. We appreciate all your time and it's
19 a late hour and you have been listening to a
20 lot of testimony. But I just want to say a
21 picture is worth a thousand words.

22 Derek Crumbley may be paid, but he

1 didn't, you know, make up those videos. And
2 there is a crowd there that is rambunctious
3 and they do lead -- the crowd is drifting over
4 onto 22nd Street. People do call the police.
5 Steve Mendelbaum testified he had called the
6 police.

7 Mr. -- inspector -- Investigator
8 Suero's report, he admitted it was incomplete,
9 that many of the police reports -- and he
10 wasn't able to obtain all, so, you know, I'm
11 not sure the ABRA Inspector's report can be
12 relied on in this particular case.

13 I actually think if they got a
14 police detail, it would save them money in the
15 long run. I can't believe that litigating
16 with us for seven years has not been costly to
17 them. And if we had the police detail and we
18 felt like they were making a good faith effort
19 to be good neighbors, I am sure that, you
20 know, the relations between the club and the
21 neighborhood would be much better.

22 As you heard testimony, there is--

1 the police can handle situations where the
2 their club security cannot. And you know, Mr.
3 Robinson's video is -- there is, you know, no
4 doubt in our minds that these are the people
5 coming from the club, because we didn't have
6 this problem before the club opened.

7 So I would just -- you know, I
8 think we are being really reasonable here. We
9 are not trying to do something unrealistic.
10 We are not saying shut the club down. But we
11 are just trying to take measures that will
12 make it so that you don't see us again, that
13 you -- you know, that we can live in harmony
14 with this establishment.

15 And I thank you for your time.

16 CHAIRPERSON MILLER: Okay. Thank
17 you. I'm going to close the record in this
18 case now and ask the parties if they wish to
19 file proposed findings of facts and
20 conclusions of law or waive your right to do
21 so?

22 MR. MPRAS: We do.

1 CHAIRPERSON MILLER: You do what?
2 It sounds like you are getting married. You
3 wish to file?

4 MR. MPRAS: That would be yes.

5 CHAIRPERSON MILLER: Okay. You
6 wish to file?

7 MS. HARMON: Yes.

8 CHAIRPERSON MILLER: Okay. So the
9 way it works then is the transcript will be
10 available within a few weeks, two to three
11 weeks. And then I believe it is sent out to
12 you. If in three weeks you don't get it,
13 contact ABRA. And then you will have 30 days
14 to submit it to the Board and each other. And
15 then we will deliberate upon it then in closed
16 session, which I'm about to read our
17 instructions on and take a vote on. And then
18 we will issue a decision, I think, within 90
19 days. It's not a new application.

20 MEMBER SILVERSTEIN: Um-hum.

21 CHAIRPERSON MILLER: Okay. I'm
22 going to do that now.

1 As Chairperson of the Alcoholic
2 Beverage Control Board for the District of
3 Columbia and in accordance with Section 405 of
4 the Open Meetings Amendment Act of 2010, I
5 move that the ABC Board hold a closed meeting
6 for the purpose of seeking legal advice from
7 our counsel on Case No. 13-PRO-00149, Shadow
8 Room, per Section 405(b)(4) of the Open
9 Meetings Amendment Act of 2010, and
10 deliberating upon this case for the reasons
11 cited in Section 405(b)(13) of the Open
12 Meetings Amendment Act of 2010.

13 Is there a second?

14 MEMBER SHORT: Second.

15 CHAIRPERSON MILLER: Mr. Short has
16 seconded the motion. I'll now take a roll
17 call vote on the motion now that it has been
18 seconded.

19 Mr. Brooks?

20 MEMBER BROOKS: I agree.

21 CHAIRPERSON MILLER: Mr. Alberti?

22 MEMBER ALBERTI: I agree.

1 CHAIRPERSON MILLER: Mr.

2 Rodriguez?

3 MEMBER RODRIGUEZ: I agree.

4 CHAIRPERSON MILLER: Ms. Miller
5 agrees.

6 Mr. Silverstein?

7 MEMBER SILVERSTEIN: I agree.

8 CHAIRPERSON MILLER: Mr. Short?

9 MEMBER SHORT: I agree.

10 CHAIRPERSON MILLER: Mr. Jones?

11 MEMBER JONES: I agree.

12 CHAIRPERSON MILLER: Okay. It
13 appears that the motion has passed on a 7-0-0
14 vote.

15 I hereby give notice that the ABC
16 Board will hold this closed meeting in the ABC
17 Board conference room after receipt of the
18 parties' proposed findings of fact and
19 conclusions of law and issue a written
20 decision within 90 days from receipt of the
21 findings.

22 So that concludes this case.

1 Thank you very much.

2 MR. MPRAS: Thank you.

3 CHAIRPERSON MILLER: Have a good
4 night.

5 MEMBER RODRIGUEZ: Good night,
6 everybody.

7 CHAIRPERSON MILLER: Thanks. The
8 Board will now recess to come back to do its
9 agenda shortly. All right.

10 (Whereupon, the Protest Hearing in
11 the above-entitled matter was concluded at
12 7:22 p.m.)

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